the Freeman

Ideas on Liberty

OCTOBER 1983

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Student Special

Any student, within the United States, may receive *The Freeman* each month of the school year, without charge, provided the student makes the request. Please help us spread this word.*

Or, if you wish to have *The Freeman* sent to one or more students or libraries or fraternity or sorority houses as a gift from you, merely send FEE the names and addresses and $5.00 each for the school year.

---

*NOTE TO TEACHERS: We want to encourage your use of our materials, but please do not ask an entire class of students to submit individual requests. We'd much prefer to send a bulk shipment of *The Freeman* each month. So, let us know your needs, and we'll do our best to cooperate.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Freeman
VOL. 33, NO. 10 • OCTOBER 1983

Letter from the Paper Planet — **Ernest G. Ross** — **579**
The trouble with fiat money—as it might seem to a visitor from outer space.

From Caves to Computers — **Bettina Bien Greaves** — **587**
The blessings of freedom to specialize and trade.

Computers and Capitalism — **John Jefferson Davis** — **594**
Assessing the impact of the computer upon the way we live.

Why Not Deregulate Labor? — **John A. Davenport** — **601**
An article-review of the case for deregulating labor relations.

Judicial Monopoly Over the Constitution: Jefferson's View — **Clarence B. Carson** — **605**
A strict construction of the idea of limited powers.

The Ethics of Crime — **Gary McGath** — **616**
How the welfare-state idea is used by the criminal to justify his actions.

The Myth of Self-Regulation — **Ridgway K. Foley, Jr.** — **621**
Behind many of the efforts at industry self-control lurks the coercive power of the state.

How "Obscene" Are Profits? — **Henry Hazlitt** — **630**
Taxing profits punishes those who best serve consumers.

Book Reviews: — **635**
"Healing America: What Can Be Done About the Continuing Economic Crisis" by Richard Cornuelle
"Mr. Jefferson" by Albert Jay Nock
"Our Enemy, the State" by Albert Jay Nock

Anyone wishing to communicate with authors may send first-class mail in care of THE FREEMAN for forwarding.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Freeman

A MONTHLY JOURNAL OF IDEAS ON LIBERTY

FOUNDATION FOR ECONOMIC EDUCATION
Irvington-on-Hudson, N.Y. 10533 **Tel: (914) 591-7230**
Leonard E. Read, *1898–1983*

Managing Editor: Paul L. Poirot
Production Editor: Beth A. Hoffman
Contributing Editors: Robert G. Anderson
Bettina Bien Greaves
Edmund A. Opitz (Book Reviews)
Brian Summers

THE FREEMAN is published monthly by the Foundation for Economic Education, Inc., a nonpolitical, nonprofit, educational champion of private property, the free market, the profit and loss system, and limited government.

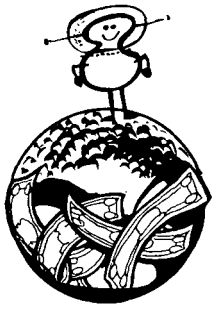
The costs of Foundation projects and services are met through donations. Total expenses average $18.00 a year per person on the mailing list. Donations are invited in any amount. THE FREEMAN is available to any interested person in the United States for the asking. For foreign delivery, a donation is required sufficient to cover direct mailing cost of $10.00 a year.

Copyright, 1983. The Foundation for Economic Education, Inc. Printed in U.S.A. Additional copies, postpaid: single copy $1.00; 10 or more, 50 cents each.

THE FREEMAN is available on microfilm from University Microfilms International, 300 North Zeeb Road, Ann Arbor, Mich. 48106.

Some articles available as reprints at cost; state quantity desired. Permission granted to reprint any article from this issue, with appropriate credit.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



Ernest G. Ross

Letter from the Paper Planet

Dear Sir:

This is my first letter to you since arriving "incognito" several weeks ago here on The Paper Planet. When you suggested that traveling to this planet for the summer would be good experience for a student working toward his economics degree, I had no idea why you felt that way. I should have guessed. Given all the "experiments" with fiat monetary systems in which the nations of Earth have chosen to engage, "The Paper Planet" is indeed a good nickname for the place.

It would be an understatement for me to say I'm astonished. The extent of the mental contortions in which most of Earth's economists are willing to engage in order to justify paper money schemes strikes me as incredible. The extent of the deceptions and coercion in which the politicians are willing to indulge strikes me as downright barbaric! But, as one of our own great economists once stated, "The economists provide the seeds of monetary policies; the politicians merely sow." In that case, I suppose many of Earth's economists are equally guilty of barbarism.

But enough of my moralizing. Here is a summary of what I have observed. (Please understand, Professor—these observations are taken largely from my notes as I made them. I have not had time to formally organize my writing yet. Nevertheless, the pattern should be clear.)

As you know, all of the truly civilized planets have long ago adopted "hard money" standards—standards based generally on precious metals, usually gold, due to its store of value qualities of rarity, divisibility, relatively steady demand, and durability. Gold exists in normal amounts on Earth and would therefore be the logical choice for a monetary standard here.

However, despite actual experiences with the virtues of gold, al-

Mr. Ross is an Oregon commentator and writer especially concerned with new developments in human freedom.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

most all nations have abandoned this metal in favor of fiat paper currencies. The first purpose I set myself was to find out why.

The most common argument against a gold standard seems to be that it is "too limiting" to a nation's economy. Inasmuch as all planets' histories show that hard money standards are growth-promoting, I could not understand this claim at first.

Limiting Aspects of Gold

The key to comprehension of this amazing contention is to define what the Earthlings mean by "too limiting." Apparently it has two major meanings—economic and political. Often, on The Paper Planet, they are inextricably intertwined.

First, the economics.

A fiat standard of money can *give the impression* that it is possible to "force feed" an economy in order to achieve continuously high levels of stable growth. This force feeding is done by printing money in vast quantities and often involves subsidized interest rates. The idea is to give people more incentive to spend money and less incentive to save. And, indeed, this process *does* result in abnormal growth—for short periods of time.

But a couple of severe problems soon occur. More money in circulation (because the printing of money *inevitably* continues to exceed the rate of production of goods and services) results in a depreciation of purchasing power. This, in tandem with disincentives to save, erodes the capital base of a nation. Less capital—less *quality* capital, I should say—means less business investment, which means less growth and employment. This eventually leads to an economic contraction called a "recession."

Strangely, one of the early aims of fiat systems was to *prevent* recessions! How this was to be accomplished is very vague—never adequately explained in all of Earth's economic literature. Personally, I believe that because such force feeding policies are in total violation of several economic laws, it is not at all surprising no one has been able to clearly explain the policies. At first, I thought that perhaps Earthmen were inordinately prone to wishful thinking. But that is not the case. What they *are* prone to is politics.

That brings us to the second interpretation of the phrase, "too limiting."

One of the hallmarks of our galaxy's civilized worlds is their universal restriction on money-tampering. I confess that until I visited The Paper Planet, I had a very incomplete understanding of the reason for this restriction. I want you to know, Professor, that I have thoroughly corrected that gap in my knowledge.

A hard money system keeps a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

check on politicians; it is *their* excesses that a gold standard limits. I have found that when a politician on Earth complains that hard money is "too limiting," it is simply his way of saying that he has reasons to embezzle the populace's wealth. Perhaps, Sir, that sounds a bit harsh; but in fact, that's what it all boils down to.

My supporting evidence:

Paper money systems always lead to inflation—and politicians always manage to construct tax systems to take advantage of this fact. As people demand higher wages to offset the erosion of their purchasing power, they are "pushed into higher tax brackets," meaning, they are taxed at increasingly steeper rates. The more taxes the politicians have at their disposal, the easier it becomes for them to "buy" the favors of special interest groups. Politicians are quite careful to buy these favors quietly (at least in the early stages of a fiat system—later on they can become embarrassingly brazen about it)—that is, they do not admit what they are doing. Instead, they use euphemisms as, "the public interest," "the common good," "the welfare of the people," "aiding the local economy," and "watching out for the folks back home."

Each special interest group (and almost everyone belongs to *some* such group inasmuch as it is natural for people to *have* special interests in certain things) finds it almost impossible to resist taking these favors from the politicians because the favors represent wealth far and above what any individual group believes it could otherwise acquire as quickly on its own. To justify acceptance, the recipients of this inflation-generated tax largess also have euphemisms, the more common of which are, "If we [or I] don't accept it, someone else will," and, "We're just getting back a little of what we already paid in [in taxes]." As you can see, Sir, it is a very vicious cycle—and, I might point out, has historically led to the downfall of nation after nation on this planet.

Paper Money Policies

A few lines back, I mentioned the fact that paper money has (especially in the late Twentieth Century, the current hundred-year calendar period on Earth) been adopted partly on the idea that its judicious (!) use could prevent recessions. In light of The Paper Planet's brief recent historical experiences with hard money, this idea needs special attention. Flying in the face of evidence, modern politicians on Earth seem convinced that under a gold standard the "ups and downs" of an economy are much more severe than under a fiat standard. All I can say to this, Sir, is that whatever standard of *judgment* is at play is, to twist the meaning of an Earth colloquial-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ism, "out of this world"—because it certainly hasn't come out of *our* hard money worlds!*

The facts: Under periods of hard money standards on The Paper Planet (a good example is the late Nineteenth Century in the geographical area called "The United States of America"), inflation-deflation had been up and down about *two* per cent (averaging out to zero, of course), while in the late Twentieth Century—paper money times—inflation has steadily increased from lows of two per cent in the immediate post-World War II period to highs of nearly 15 per cent in the late 1970s!

While some argument might be made that growth rates have been a little higher under the paper money system than under the gold standard (four or five per cent during "boom" times for the former, three or four per cent for the latter), the picture is quite distorted. Fiat currencies so disrupt the accounting procedures of the economy that the argument is specious at best—and does not take into account the higher, productivity-advancing technologies which leapt into existence in the 1970s; the subtle, but vast erosion of incentives to save—which, as mentioned earlier, plays havoc with a nation's *future* productivity; the enormous burdens of taxes which the inflation created, resulting in virtually *no* rise in the standard of living for nearly a dozen years.

As a student of economics, Professor, I admit I'm compelled to ask, "If fiat currencies *really* produce higher economic growth—as their advocates maintain—then why have living standards stagnated during the period of *most* explosive money growth?" Keep in mind, Sir, that these facts pertain to the nation which is thought to be the *best* off economically of all the major nations of The Paper Planet.

Already I miss my homeworld. I cannot help but wistfully reminisce on the differences in everyday life at home and here on Earth.

At first, I was going to leave these reminiscences out of my letter. However, upon serious reflection, I believe they have instructive value—at least, they did for me; I'm sure you're already aware of these differ-

*Although hard money has limited recent experience, it was quite extensively used in more ancient Earth—for example, as *Why Gold?* (Exposition Press, 1974) author, Leslie Snyder, wrote of the Byzantine Empire, "The bezant [unit of currency] was minted at a standard of 65 grains of fine gold for *800 years* . . . So determined were the empire's rulers to maintain the integrity of their money that they required all bankers and others through whose hands money passed to take an oath never to file, clip or debase coins in any manner. The penalty for any violation of this oath: the offender's hand was cut off." This, unfortunately, was the longest recorded use of an uncorrupted gold standard. Even in the ancient world, gold standards did not long remain inviolate from the tamperings of politicians.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ences, Sir, or you never would have suggested this visit to Earth. So, bear with your Humble Student.

On the homeworld, under our gold standard, businessmen have an enormous advantage over those here on The Paper Planet. The gold standard creates a climate of great stability and confidence in the future. Here, the erosion of money's value (as well as the periodic bouts of high interest rates when they are politically allowed to reflect inflation) creates an atmosphere of fear—fear of economic crashes and recessions, of renewed periods of stagnation, and of reduced purchasing power. These factors lead to other fears, especially fear of protectionism (and thus contracted trade and international ill will), which has often—I shudder to think of how often—led to war as the more tyrannical nations began to prey on the perceived corruption and weakening of the fabric of their wealthier neighbors. Often the attacks against their neighbors were used to distract attention from the tyrannies' own terrible economic problems.

On the homeworld, entrepreneurship is a constant, normal, exciting part of our lives. With the stability of a hard money system (which, of course, helps keep taxes down) it is possible for most people, with a very few years of work, to raise enough capital to start their own businesses. This has resulted in virtually no forced (i.e., government-caused) unemployment.

It is hard to imagine a system under which individuals do not have the option of easily switching careers through entrepreneurship choice; it is almost impossible to imagine a system under which the people have come to expect government to take care of them when they are out of work, or forcefully "protect" their jobs by preventing businesses from failing (by *law*, no less!); it is downright distasteful, Sir, to see people who have become so dependent on government expropriation of their neighbors' wealth! Yet, that is exactly the kind of systems that dominate The Paper Planet. It is the kind of horrid dehumanization which happens from institutionalization of fiat currencies.

Related to the previous paragraph, on the homeworld, we have no concept of "social security"—a system almost universally accepted on Earth as a way of guaranteeing that no one will be without means of support in his or her old age.

Reasons for Social Security

There are several reasons why this so-called "security system" has evolved as a direct result of paper currencies:

(1) With the loss of the entrepreneurship choice, it is impossible for most of the Planet's people to effectively generate large enough quan-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tities of capital wealth to provide for their later years.

(2) The high tax rates generated by a fiat standard discourage savings even by a *life-long* wage earner; thus the non-entrepreneur, the person who doesn't *like* being an entrepreneur, is stripped of his means of self-provision. (This varies from nation to nation on The Paper Planet. In the United States, more than any other major nation, it would still be possible—though barely—for average wage earners to provide for their personal retirements, *if* they were allowed to keep the money which is now taxed for Social Security and instead put it into private retirement plans of their choice. There is a move in that direction now, but I fear that unless the paper money system is abandoned, the trend will grind to a halt.)

(3) The fiat system has so undercut the self-confidence of the people that it has largely instilled in them an actual (I believe *inhuman*) desire *to be taken care of* by government. That is a sad, sad state of affairs to witness, Sir. The horrible thing is, the more the government caters to this dependency, the worse it gets. In a perversion that perhaps best illustrates how serious the situation has become, most people now think of Social Security as a *right!*

On the homeworld, even simple, everyday things are easier to accomplish than on The Paper Planet. A good example would be the way my wife is able to deal with our family's financial needs. Because prices are so stable (of course, they actually *fall* a bit each year), she is able to logically, confidently plan our home's future. As most families do on the homeworld, we can reasonably project when we'll be able to buy new furniture, purchase a new family vehicle or new entertainment/communications equipment, acquire a finer home, and so forth.

More importantly to us, we know that we'll be able to finance our two children's education (presuming they *want* our help—little Suzy and Johnny are showing signs of *dedicated* independence!). Sir, did you know that on Earth, most graduate students cannot even *consider* starting families for years? They are simply too poor to do so. I cannot imagine suffering the poverty they endure; I don't know what I would have done without the option of free-lancing work for homeworld financial institutions while going to college; it's wonderful to be able to earn enough money to raise a family and pay for my education out of such part-time work—truly an indication of how a hard money system raises living standards!

Faith in the Future

While the spirit of the future, underscored by the constant introduction of thousands and thousands of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

innovations, permeates the world view of the average citizen of the homeworld and our sister planets, here on The Paper Planet, that spirit is a frustrated, deformed thing, where it exists at all. At home, under the venture-capital-encouraging hard money system, innovations are not abnormal—they are virtually taken for granted! As you know, we all expect that each year we will personally have newer, better products from which to choose. It is a condition which my father and grandfather enjoyed—and their fathers and grandfathers before them for many generations. It is a condition which we regard as one of the great joys of our hard money system. To witness the bountiful fruit of human ingenuity flooding our markets each year—what could be more inspiring to an individual?

I suppose, Sir, that my letter from The Paper Planet would be somewhat incomplete if I did not mention how Earth could, in my view, rid itself of this "paper pestilence."

Having spent several weeks with Earthlings, and despite their stubbornly uncivilized monetary ways, I *have* grown rather fond of them. While—as on all worlds—there are evil people scattered about, most Earth people are basically decent, and if given half a chance in the ordinary courses of their lives, show a promising respect for the rights of others. I believe this "gut level" respect could be solidified in a major way if even one nation—especially an influential, large nation—were to return to the discipline of gold. Gold cements the right of property, which in many ways underlies all other rights—hence, the idea that a gold standard would assist in institutionalizing a respect for rights. It would make for a much better planet Earth.

The United States Could Lead

As far as I can tell, the most likely candidate for a return to a hard money system is the United States of America. This nation is still the freest of all the large nations, and has recently undertaken greater discipline of its fiat currency—a currency which, it is important to note, is virtually the "base" or "reserve" currency of all other major, non-totalitarian trading nations.

However, because of the insidious nature of the politics constantly engendered under a fiat money standard, I fear this new discipline cannot last. At least, it will not unless it is underpinned by something more than the resolve of politicians—as attracted as they are to a fiat standard's "constituency-buying," special-interest-catering qualities. So, clearly, that underpinning ought to be a hard currency—probably both gold and silver.

Because the United States is also the most advanced nation technologically, and is considered *the* lead-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing nation of the planet, a return to a gold standard would be the fastest avenue for helping Earth to gain many of the same benefits which we on the homeworld now take for granted. The U.S. lead in technology would allow industry to most rapidly expand under the stability a gold standard would provide; U.S. "leader" status would, by example, and by the greatly increased value of its already respected (though fatally flawed) fiat currency, spread the benefits of a new, hard currency system to the rest of the world. In a sense, the American dollar is the circulatory system of world trade. Putting gold into the system would be like increasing the oxygen-carrying capacity of blood—infusing world trade with new energy and vitality.

Steps Back to Gold

While there are undeniably many ways in which U.S. leaders could accomplish this conversion from a "soft" to a "hard" standard of money, the best way would have to involve these three factors:

(1) Allowing free private ownership of gold (already in effect in America).

(2) Tying the dollar to a specific weight of gold or silver—and allowing people to convert back and forth.

Convertibility is absolutely necessary if the citizens are to have a "veto" over political money-tampering. When citizens can exchange dollars for specific weights of gold or silver, the burden is on the government to refrain from inflating—for if it does reflate, citizens will drain the government's valuable gold reserves. Of course, when point number three is implemented, private coinage will provide the final check on politicians: taking the governance and responsibility for maintaining the *integrity* of money out of their hands entirely. This, of course, is our system on the homeworld.

(3) Ultimately permitting private coinage of gold and making no laws barring the use of privately minted coins in trade or banking.

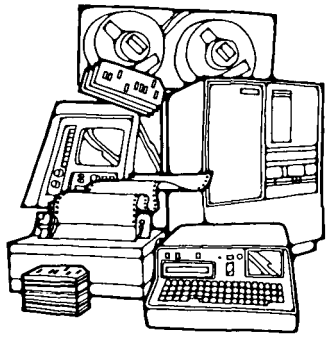
Well, Sir, that about wraps it up. I'll present a more detailed report to you in further letters and in person when I return to the homeworld. Thank you for suggesting my visit to The Paper Planet. It is a visit which will undoubtedly remain as one of the most important experiences of my life. My only hope is that the residents of this lovely planet Earth learn as much about the nature of their fiat systems as I have. Until they do, I fear they will remain mired in an immature culture and may very well lose an immense amount of the progress they've already gained.

Sincerely,
Your Humble Student

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Bettina Bien Greaves

From Caves to Computers



To MANY, computers appear human, perhaps even super-human, "miracle" workers. Certainly, they can help with many difficult and time-consuming tasks—keeping records, making mathematical calculations, drafting manuscripts, designing charts and diagrams, compiling statistical tables, and so on and on. They *are* remarkable "productivity-raising devices." Yet they are neither human nor super-human. They are only inanimate, man-made contrivances. If "miracles" are involved in making computers, they stem from the thoughts and the accomplishments of countless individuals throughout the ages, individuals who conceived of new ideas, were free to try them out and dared to experiment.

Mrs. Greaves is a member of the Foundation's senior staff. This article is based on a recent talk she gave in Dallas, Texas.

Computers, however, are only one of the many impressive devices we enjoy today, for which we are indebted to our innovative ancestors. To appreciate the extent of our debt and the many contributions their originality, experiments and exertions have made to everyday phenomena, we should think back to the time before modern tools existed.

In the Beginning

Imagine, if you can, Planet Earth as it appeared before there were people—nothing but rocks, mountains, deserts, plains, jungles, rivers, lakes, oceans. The large land masses and bodies of water have shifted over the ages, to be sure. Earthquakes, volcanic eruptions, erosion, alluvial deposits, and the like, have caused many changes. However, Planet Earth's natural resources are still essentially the same,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

physically and chemically, as they always were. And if it hadn't been for the appearance on earth of people, there would still be only rocks, mountains, deserts, plains, jungles, rivers, lakes and oceans.

As we look around today, we are impressed by what people have wrought. We see many remarkable things—magnificent highways, vast acres under cultivation, huge factories, gigantic skyscrapers, mighty ocean freighters, airplanes overhead, trucks and automobiles, heavy earth movers, countless homes and apartments, shopping centers, electronic computers, radios, TVs, movies, man-made textiles, "miracle drugs," and so on. All these have been brought into existence by the efforts of people. Yet they were not *created* in the physical sense. People cannot *create* something out of nothing. They cannot even imagine how something may be created out of nothing. Thus, we must ask, how did all these remarkable things come about?

Freedom to Experiment, Freedom to Improve

In the beginning, men, like animals, had to struggle to survive. They had only their own hands and wits to help them in trying to satisfy their most pressing wants, aims and goals. They could do little but forage for food, shelter and for things to wear, then carry or drag what they found to wherever they wanted to use it. Long hours had to be spent almost every day in acquiring the barest essentials. Yet step by step, men brought about improvements. The changes that made all these improvements possible depended on four factors—the freedom of men to pursue personal values and goals, their ability to conceive of new ideas, the opportunity to acquire property and to use that property as they chose, and their willingness to experiment in the attempt to implement their new ideas. Whenever men have enjoyed such freedom and opportunity, they have been able to improve their situation.

Over the centuries, as men were free to try, free to experiment, they transformed Planet Earth into our world of modern machines, structures and appliances. Each step along the way was taken by an individual, choosing and acting according to his or her own best judgment. The action of a single individual may seem insignificant, but the accumulated actions of countless individuals over the ages have led from the cave to the modern computer. The process was long and slow. It was uneven. Men encountered many obstacles and setbacks due to natural catastrophes and the violent interventions (war, pillage, theft, and the like) of other people. However, they did make progress in time, thanks to the contributions of unknown ideamen and experimenters.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

People recognized rather early that it was to their advantage to cooperate with other people on some projects. Two or more persons could push or drag heavier loads than could one man alone. Two or more men could forage or hunt over a wider territory than could one man alone. Two or more men could protect more women and children in a larger shelter or refuge area than could one man alone. Cooperative pushing, dragging, foraging, hunting, and protecting meant that there would be more food to share, more and better shelter per person, and more safety and security for everyone in the community. Cooperation helped everyone concerned.

Specialization and Trade

As time went by, more and more persons came to appreciate the benefits of cooperation. Cooperation enabled them to specialize and to exchange their output with others. It was no longer necessary that each person be a "jack of all trades." Each could spend more time on what he preferred to do and what he could do well. Out of cooperation there developed specialization and trade. Communities, towns and eventually cities evolved as centers for communication and trade.

To cooperate, specialize and trade successfully, however, men had to communicate. This called for some kind of language. We know little about the origin of language, except that it must have been a product of prolonged and continuing cooperation. Words may have originated as simple sounds, expressions of pain or joy combined with gestures and signals, or perhaps in imitation of the calls and cries of animals. In any event, as a result of countless contacts among individuals who wanted to express ideas, words were developed in time for many familiar objects—man, woman, child, baby, danger, fire, home, hearth, and the like.

Eventually, words were adopted also for abstract concepts until we now have terms to express fine shades of emotion, complex scientific theories and even profound philosophical concepts. Yet no one set out to develop a full-fledged language. It developed simply out of countless attempts on the part of many individuals, on many occasions, to convey ideas and transmit messages to other persons. Moreover, men have developed not just one single language over the ages, but hundreds, each with its own unique vocabulary and its own distinct grammatical structure.

A Medium of Exchange

Money was also developed as a result of countless actions on the part of many private individuals who took advantage of freedom and opportu-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nity to pursue their various personal goals. Specialization and exchange, which came with cooperation and communication, made it possible to produce more goods and services. However, they also made most trades more complicated. Buyers and sellers of specific items were not always easy to locate so it was seldom easy to match them with one another. What one would-be seller was offering might not be what any available would-be buyer wanted at the time. And would-be buyers might not then be ready to offer in exchange, for the items *they* wanted, the precise combination or quantities of goods and services anyone else in their community was seeking. Faced with this dilemma, someone must have asked himself one day: "Why not accept in trade something *other* people might want? Even though I might have no use for it now, I could use it later to trade for things I will be wanting then."

This reasoning led buyers and sellers step by step to *intermediate* exchange. Rather than waiting for trading partners with precisely what they wanted, they traded their goods and services for more generally accepted commodities. They expected a supplier of what they really wanted would be more willing to take this generally accepted commodity than the good or service originally offered in trade. Thus, different commodities—cows, wampum, shells, tobacco, and so on—gained general acceptance as "media of exchange" or "moneys." In time, as a result of countless separate trades among individuals, the choice gradually narrowed until by the end of the 19th century gold had become recognized almost worldwide as the most generally accepted "medium of exchange" or "money."

People, not governments, were responsible for money; governments only took advantage of the money which evolved over centuries from the ideas and voluntary transactions of private persons. The paper and credit money we use today is not market money, but rather a perversion of market money, dependent on the force and coercion of governments which hampered individual actions and choices. But that is another long story.

Few nowadays give thought to how such common everyday phenomena as cooperation, communication and money developed from the ideas and the voluntary choices and actions of private persons. Yet they did. All arose out of persistent and repeated efforts on the part of unknown numbers of our ancestors who conceived of new ideas and used what freedom and opportunity they had to experiment. It is only thanks to them that we can cooperate, communicate and trade with ease today. Without widespread cooperation, languages for far-reaching communication and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a widely accepted money, it would be absolutely impossible for our complex market economy to function today.

Productivity

Men cannot *create* anything in the physical sense. However, if there are no insurmountable obstacles in their path, they can move already existing things around. They can alter natural resources in various ways. They can transport, reshape, adapt, and combine them with one another. By moving specific quantities of natural resources around, at crucial times and under controlled conditions, men can form new shapes and new structures. As a matter of fact, when men have been free to experiment, their ingenuity and inventiveness leads to a kind of "creativity." This "creativity" is productivity, which stems simply from the ideas men have about *how* to move natural resources around, *when* to combine them with other resources and under what specific conditions.

Whenever a person with a new idea transforms a natural resource in some way to develop a new tool or production method, he sparks an "industrial revolution" of sorts. Occasionally an individual who introduces a significant innovation—a Gutenberg, a Ford or an Edison—will be recognized and remembered. However, most of the innovators who have contributed to our remarkably productive economy, with its "miraculous" tools and products, have been unknown, unheralded and unrecorded. For instance, we know nothing about the specific individuals who introduced the wheel, the axe or the arrow, thus sparking the first "industrial revolutions." But we do know that they had some purpose in mind. They used mind and reason to try, to experiment and to improve their situations. We know also that all who came after, all who chose voluntarily to use the wheel, the axe or the arrow, did so because they expected it to help them accomplish their own goals.

Some ideas for new tools were sparked by observation, others by thought or action. "Lucky accidents" undoubtedly played a role. But it takes mind and reason to turn a "lucky accident" into a good idea. Some new tools were intended to make it easier, or quicker, to accomplish specific tasks, others to improve or increase output. Men learned in time that they could accomplish more, more easily and more quickly, with tools than they could with only hands, muscles and elbow grease. Thus, they chose voluntarily to adopt these "productivity-increasing" tools. With every "industrial revolution" that succeeded, the struggle for survival became a little easier.

The development and improvement of tools has been a continual

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

process from the cave to the present day computer. Whenever men were free to try, their urge to improve conditions induced them to move resources around. They couldn't create a fire or heat. However, they discovered how to build a fire that produced heat by rearranging natural resources. They learned to twirl two sticks together to make sparks from which they could light a fire. Later they discovered how to put phosphorus on a small stick, strike that stick against a rock to produce a flame that could set dry leaves, twigs or wood shavings on fire. They were not *creating* anything. They were just rearranging natural resources in line with their ideas in the hope of achieving a purpose.

Rearranging Resources

This process of rearranging resources, revising, adapting and combining them with others, is production. The many things we have today—our tools, machines, equipment, appliances, commodities and conveniences—were all produced by shifting natural resources from place to place, in certain quantities, at crucial times and under prescribed conditions. The "creativity" of human beings, their productive genius, stems simply from the ideas they have about *how* to move natural resources around, *when* to combine them with other resources and under what conditions. The computer, as well as the many other sophisticated tools, commodities, appliances and conveniences we enjoy today, were all developed and produced in this way—by individuals who were free to act, conceive of ideas, and dare to experiment by moving natural resources from place to place under controlled conditions.

Let's consider a specific example—steel. Iron is dug from the ground and shipped to a foundry. There it is combined with carbon and other minerals at extremely high temperatures. The steel that results is then compressed, stamped, cut and shaped into many products—rails, trains, ships, automobiles, toasters, computers, and countless other familiar and unfamiliar products—all this without benefit of miracles, simply by rearranging natural resources.

Millions of small "industrial revolutions" have occurred since the days of the caveman, each sparked by some individual's idea and action. *The* "Industrial Revolution" from the mid-18th to the mid-19th century was the outcome of a cluster of newly-developed tools and methods of production—the steam engine, the factory system, the spinning jenny, large-scale agriculture, assembly-line production and new trade channels. John Locke, David Hume and Adam Smith, among others, had argued in their writings, published over several decades, that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the powers of the British monarch should be limited and the lives, property and freedom of British citizens should be better protected. As such ideas gained acceptance the British Parliament repealed many controls and regulations on production. Then persons with new ideas no longer encountered such serious obstacles from government. They were no longer prevented by the old Mercantilist government rules and regulations from embarking on new projects. Individual ingenuity was challenged and new ideas and inventions proliferated.

Responding to Opportunities

The effects of the relatively greater freedom enjoyed by British citizens to act and experiment were felt in almost every field of endeavor—transportation, shipping, commerce, communication, mining, iron and steel, farming, construction, textiles, clothing, medicine, and so on. Production expanded and the country's population increased. Individuals were better able to acquire property, save and invest their property to further increase production. People moved from localities where their families had been attached to the land for generations, to places where opportunities looked brighter. Many migrated to the United States, South Africa and Australia. New trade channels were opened, new sources of raw materials and new markets for factory products were developed. The groundwork was being laid for today's industrial production and the "Computer Age."

Great things are accomplished step by step. A magnificent church is constructed stone upon stone. The tallest skyscraper is built floor upon floor. New factories are constructed brick upon brick. New highways are extended mile by mile. New trading patterns are developed bit by bit. Similarly, the vast accumulations of wealth, the stocks of goods, the many tools, machines, pieces of sophisticated equipment, appliances and modern conveniences, were all developed over the ages, without the benefit of miracles, as entrepreneurs explored and experimented to discover new resources and new ways to revise and combine them. The progress of men from the cave to the computer has been step by step, as a result of individual choices and actions.

The famed economist, Ludwig von Mises, often described the automobile of today as "the automobile of 1900, with hundreds of minor improvements." Thus the modern computer is the calculator and/or the typewriter of decades ago "with hundreds of minor improvements." Each improvement came about as some individual had an idea, had the freedom to act and dared to experiment with property he could call his own.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

John Jefferson Davis

Computers and Capitalism

It is an increasingly obvious fact of contemporary American life that the computer is having a pervasive influence on the way we work and live. What is not so obvious is that the computer is beginning to challenge some of the most widely held assumptions about the nature of our economic system. Specifically, the invention of the microprocessor has helped to make obsolete some of the most common objections which the free market system has faced during the last several generations.

"Capitalism leads to excessive market concentration." This criticism is at least as old as Marx himself. Capitalism, it is said, inevitably leads to monopolistic concentrations in each industry which ruthlessly suppress the competition and which leave the consumer at the mercy of a few powerful producers.

A corollary of this criticism is that capitalism leads to social inequality as well: not only is production concentrated in fewer and fewer hands, but wealth itself, the fruit of production, is concentrated in fewer and fewer hands as well. "The rich get richer, and the poor get children." An increasingly stratified society, with the poor at the mercy of the wealthy ruling classes, with little hope of upward social mobility—such is the popular image of the results of the free market.

It should be noted, of course, that the criticism of excessive concentration of the means of production boomerangs against the socialist critic. In a socialist system the state has a monopoly of the means of production, and society in effect becomes one large company store, with all the potential for abuse and inefficiency which that entails. A thoroughgoing socialistic system is in fact the prime example of monopolistic concentration in economic life. The Communist Party of the Soviet Union exerts far more power in economic life than Exxon or Gulf Oil could ever exert in the petroleum and energy industries. Exxon can not send its competition to prison; the Communist Party can.

The facts of recent American experience do not support the "excessive market concentration" criticism.

Dr. Davis is Associate Professor of Theology at Gordon-Conwell Theological Seminary, South Hamilton, Massachusetts, and author of the forthcoming book, *Your Wealth in God's World.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Especially in the rapidly growing fields of computers, data processing, and electronics, new firms are challenging the dominance of older firms such as IBM. New fortunes are being made almost on a daily basis, and a whole new generation of bright and energetic young entrepreneurs has appeared on the international scene to vindicate the wisdom and productivity of the classical free market.

The Computer-Based Economy

In the new "Information Age" economy created by the computer, creativity can be richly rewarded, age is no barrier to success, and entry into the marketplace has never been easier. In the new world of the computer-based economy, "breaking in" does not necessarily require vast amounts of steel and concrete and capital, but rather new ideas, a willingness to take risks, and imaginative insights into new applications of the burgeoning computer technology. A new insight, a knowledge of programming, and access to a computer terminal are all that is needed to launch a new software enterprise.

James Nitchals is now 21 years of age, runs his own computer software company, and expects to make his first million dollars before he is 25. Rob Fulop is only 25, but is already making more than $100,000 a year, drives an expensive BMW and owns his own town house near San Francisco. Nitchals and Fulop are examples of a successful new breed of young video and computer game designers that are leading the way in a new industry that already generates more than $1.2 billion in revenues annually.[1]

Steven Jobs, a college dropout, and his friend Stephen Wozniak started Apple Computer Incorporated in a garage with an initial investment of $1,300. Sales surged from $2.7 million in 1977 to $200 million in 1980. In 1981, Apple controlled 23 percent of the $2.2 billion world market in personal computers.[2]

The wealthiest man in New England is not a "Boston Brahmin," but 62-year-old An Wang, who emigrated to the United States after World War II from Shanghai with personal assets on the order of $100. Wang went on to found Wang Laboratories, producing computers and other high-tech devices, and today Wang's holdings are valued at $200 million. His wife Lorraine's holdings are on the order of $120 million, and his children hold $300 million in stock.[3]

As journalist Alexander Taylor has noted, "Up to now, it seemed as if opportunities for making great fortunes like those of the Rockefellers and Carnegies had been cut off. It is heartening that people are taking chances and sometimes succeeding beyond their wildest dreams."[4]

The success stories of Jobs, Wozniak, Wang and many others dem-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

onstrate that the doors of the free market are wide open today for those who have the energy, the initiative, and the imagination to walk through them. The new world being brought into existence by the computer chip is dispelling the myth of the closed economic society and the "monopolistic market concentrations" which shut out all competition.

The same principles of ready access to rapidly changing markets and the need for constant creativity and innovation hold true in the international arena. American computer firms can not assume that today's successes and today's profits assure an easy time in the economic battles of tomorrow. The Japanese now export more that $1 billion worth of semiconductor devices. In the strategic market for 64K Random Access Memory chips, the heart of the modern microcomputer, the Japanese have captured the lead even in the United States.[5] "Excessive market concentrations" are neither inevitable nor permanent in the dynamic and rapidly changing world of computer technology.

Enemy of the Environment?

A second frequently raised criticism is that "capitalism destroys the environment." Images of greedy corporate moguls turning the wilderness into vast strip mines, asphalt parking lots, shopping centers, and fast food chains come to mind. While there are certainly legitimate concerns for the safe disposal of toxic wastes and other environmental hazards, the general environmental picture presented in the mass media has tended to be one-sided.

As Professor Julian Simon of the University of Illinois has pointed out in a detailed article in *Science,* between the years 1920 and 1974 the total acreage in the United States devoted to wildlife preserves and to state and national parks increased from 8 to 73 million acres. It is still the case that all the land in the United States used for urban areas and roads amounts to less than three percent of the total surface area of the country. Lake Erie, which was pronounced ecologically dead some years ago by Barry Commoner, has improved significantly, and the fish catch is actually increasing.[6]

More fundamentally, the thesis that "capitalism destroys the environment" overlooks the fact that the computer is leading the way from an economy based on heavy industry and manufacturing to one increasingly based on the creation, processing and distribution of information. We are now in fact already living in the "Information Age." Today more than 60 percent of the American labor force works with information as programmers, teachers, clerks, secretaries, accountants, managers, brokers, insurance people, attorneys, bankers, and technicians. Only

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

about 13 percent of the labor force is actually engaged in manufacturing operations. Almost 90 percent of the 20 million new jobs created during the 1970s were in the areas of information, knowledge, and service jobs.[7]

In the new Information Age created by the computer, the creation of new wealth is not exclusively or even primarily dependent on digging physical resources from the ground—with the environmental problems which may be entailed—but rather, depends on intangibles: new ideas, new processes, and new ways of organizing people and providing services. A new computer software program for businesses or a new video game can create an enormous amount of new wealth and human employment without destroying the environment. Human creativity has taken ordinary sand, a physical resource for which there is virtually an inexhaustible supply, and by turning it into a silicon chip, has created an almost boundless cornucopia of income, employment, and opportunities for human development.

Videotex and Fiber Optics

The relatively new videotex market, which provides online information to computer terminals in businesses, government, and private homes, already represents a $250 million a year business. Industry analysts expect that the videotex industry, together with its associated hardware and software components, will be approaching a $7 billion dollar market by 1987—a projected annual compound growth rate in excess of 93 percent.[8]

The transmission of data between computer-controlled systems is being revolutionized by new developments in fiber optics technology. New glass fibers now being developed in the laboratory are only one-tenth the diameter of a human hair, and yet are so efficient in the transmission of information in bursts of light that the full contents of 16 Bibles could be transmitted across the country in a single second. Already some 37,000 miles of the new fibers have replaced copper wires in the telephone system, and by the end of the decade, the U.S. market in fiber optics technology is expected to reach $1.2 billion.[9]

Videotex and fiber optics technology—powerful new generators of wealth that hardly existed a decade ago—are only two examples among many in the new computer age which make the older environmentalist criticisms of the free market system largely obsolete. No longer must society face the apparent dilemma of new jobs versus clean air: with careful planning and creativity, society can enjoy both.

During the age of industrial capitalism, the forces of the market tended to concentrate resources and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

manpower in the large urban areas. The need for such concentration no longer exists in the new computer-based economy.

In the small town of Peterborough, New Hampshire there are no traffic jams and many of the town's 5,000 residents are on a first-name basis. This tiny town in the southwestern part of the state, some 80 miles from Boston, is the hub of some rapidly growing publishing and mail order businesses. More than 20 periodicals and countless books, catalogs, and newsletters are being published within a ten-mile radius of this small New Hampshire town. Titles such as *Byte, Microcomputing,* and *Robotics Age* herald the new information-based economy which has come to town.[10]

When ideas rather than physical resources have become the coin of the realm, there is no need to crowd all successful enterprises into already overcrowded urban areas, and the environmental advantages can be considerable. When the "commodity" being produced is information, deliveries can be made easily and rapidly over a telephone line, and the producer can be located almost anywhere.

Third World Oppression?

Yet another charge levelled against the free market system is that capitalism inevitably oppresses the poor peoples of Third World nations. According to Third World revolutionary Frantz Fanon, "The question which is looming on the horizon is the need for a redistribution of wealth. Humanity must reply to this question, or be shaken to pieces by it."[11]

Criticisms such as Fanon's are not really new, but derive from the thesis of Lenin that capitalistic economies are inherently oppressive and imperialistic, ever seeking to expand markets, seeking cheap raw materials from the poor nations and then selling finished goods to those same poor countries at exorbitant prices. As has been the case with the great social mythologies of history, there has been just enough of an element of truth in the Lenin thesis to make it persuasive in the minds of countless millions of people in the twentieth century. Recent experience, however, indicates that Lenin was never entirely correct, and that his analysis is rapidly becoming out of touch with reality in today's international high-tech economy.

It is no longer the case that developing nations are condemned forever to be merely the suppliers of raw materials for the factories and heavy industries of the West. Hard work, initiative, and technical know-how are enabling many of these once impoverished nations to leapfrog ahead in the world economy.

Singapore, with hardly any natural resources, and a land area hardly

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

larger than Memphis, Tennessee, has won 25 percent of the global backlog of orders for oil rigs, second only to the United States. South Korea is now the world's largest producer of black and white television sets. These new high-tech giants of Asia are now offering stiff competition to Japan in the international market.[12]

Atari has decided to move a significant portion of its computer assembly operations offshore to Taiwan, in order to take advantage of favorable tax structures and the energetic and more economical Taiwanese labor force. Rather than being "oppressed," the Taiwanese have found themselves to be the beneficiaries of economic dynamics in the computer age where societies that are labor and knowledge intensive can compete very effectively with the older industrial societies.

Enemy of the Family?

Perhaps one of the most serious charges to be laid at the feet of the free market system is that the capitalistic system is inherently destructive of such critical human values as marriage, strong family ties, and community stability. Is it really the case that capitalism has sacrificed some of civilization's most treasured values at the altar of greed and economic gain? The relentless search for profits, the promotion of a mercenary frame of mind, the weakening of ties with the soil, the family and the town, the constant corporate moves and the transient style of life: such is the litany of accusations made against the free market system.

These charges are to be taken seriously, and historical honesty requires that they not be dismissed out of hand. It is indeed the case that fathers under the age of 40 in America move on an average of every three years.[13] The American family is experiencing tremendous stress, and it is undeniable that economic factors have contributed to the crisis.

Any economic system or theory which neglects the role of the family runs the risk of killing the goose which is helping to lay the golden eggs. As George Gilder has pointed out, the creation of wealth arises out of a matrix of values and character traits which are learned in healthy families. "If work effort is the first principle of overcoming poverty, marriage is the prime source of upwardly mobile work . . . work, family, and faith . . . are the pillars of a free economy and a prosperous society."[14]

One of the most encouraging dimensions of the computer revolution is that it has great potential for reducing this tension between home and work. In his best-selling book, *The Third Wave*, Alvin Toffler has even ventured to predict the advent of the "home centered society" in which an increasing number of Americans will be operating out of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

their homes as the centers of their business, educational, and personal lives. Instead of being forced to move to a different town in order to change jobs, many will be able to simply "plug into a different computer." The "Home Centered Society" of the Information Age will mean less forced mobility, fewer transient relationships, and greater participation in community life.[15]

William H. Bowman of Belmont, Massachusetts is a good example of the new breed of cottage-industry entrepreneurs. Bowman and his friend David Seuss formed Spinnaker Software Corporation in May of 1982. Bowman, whose firm markets learning games written for microcomputers by freelancing programmers, expects to earn $3 million in revenues in 1983, and as much as $50 million within five years. The "testing laboratory" for the computer games has been Bowman's Belmont home, where his six children and their friends play the new games for hours on end.[16]

The computer revolution has brought earning and play and family and work together in an entirely new way virtually unparalleled in the experience of mankind. This is not to say, of course, that the Information Age is without its own hazards, but the new economic realities of the computer revolution make some of the most common criticisms of the free market obsolete and open up exciting new vistas for human creativity and the well-being of mankind as a whole. ⊕

—FOOTNOTES—

[1]Tom Nicholson, *et al.*, "The Hottest Game in Town," *Newsweek*, August 16, 1982, p.55.

[2]Alexander Taylor, "The Seeds of Success," *Time*, February 15, 1982, pp. 40,41.

[3]Stephen Bailey, "Plenty of Green in New England," *Boston Globe*, August 28, 1982, p.12.

[4]Alexander Taylor, in "A Letter From the Publisher," *Time*, February 15, 1982, p. 1.

[5]Douglas Ramsey, *et al.*, "Japan's High-Tech Challenge," *Newsweek*, August 9, 1982, p.51.

[6]Julian Simon, *Science*, June 27, 1980, pp. 1431-37.

[7]The foregoing figures are from John Naisbitt, *Megatrends* (New York: Warner Books, 1982), pp. 14,21.

[8]"Videotex Market Predicted to Hit $7 Billion by 1987," *Communications News*, March, 1983, p.25.

[9]Richard A. Shaffer, "A Faster Kind of Optical Fiber May Capture Much of Market," *Wall Street Journal*, July 23, 1982, p.19.

[10]Wendy L. Wall, "A Small, Remote New Hampshire Town turns Into Sophisticated Publishing Hub," *Wall Street Journal*, September 2, 1982, p.19.

[11]Cited by Jim Wallis, "Of Rich and Poor," *Post American*, February/March 1974, p.1.

[12]Louis Kraar, "Make Way for the New Japans," *Fortune*, August 10, 1981, p. 176.

[13]Jay Kesler, "Family Portrait—1982," speech at National Association of Evangelicals Convention, March 2-4, 1982.

[14]George Gilder, *Wealth and Poverty* (New York: Basic Books, 1981), pp. 70, 74.

[15]Alvin Toffler, *The Third Wave* (New York: Morrow, 1980), p. 220.

[16]Ronald Rosenberg, "New Home Videos Provide an Educational Adventure," *Boston Globe*, August 17, 1982, pp. 41, 54.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

John A. Davenport

Why Not Deregulate Labor?

DESPITE the tendency of economists to create more problems than they solve, there seems to be a growing consensus that the American economy will gain as we lift strangling governmental regulations from industry as in the case of oil and transportation. But just below the surface, students of the business scene are beginning to ask a more far-reaching question. If deregulation is good for business, why should it not be extended to the biggest and most important market in the country, namely the labor market which today is cluttered up by minimum wage laws, over-elaborate safety and health rules, and the laws affecting so-called collective bargaining? Says Manuel Johnson, Assistant Secretary of the Treasury, "Maybe here is an idea whose time has come."

Mr. Johnson, to be sure, is not an entirely disinterested observer. Two years ago while still teaching at George Mason University he joined hands with two academic colleagues, James T. Bennett and Dan Heldman, to publish a small book entitled *Deregulating Labor Relations* (Fisher Institute, $12.95).* The book has received passing attention from some learned journals but so far only a yawn from the public press. Which is too bad because this little volume puts the labor problem and the labor cost problem into a new perspective—the perspective of over-regulation.

In making good this thesis the authors assume that despite much loose

A former editor of *Barron's* and *Fortune*, Mr. Davenport is author of *The U.S. Economy* and a frequent lecturer on political economy.

*Fisher Institute, 6350 LBJ Freeway, Suite 183E, Dallas 75240.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

talk to the contrary, a man's work and skill is the most precious commodity he possesses and should sell in the market like any other commodity. Their second thesis is that employers questing for profit are simply middlemen between consumers on the one hand and workers on the other, and that freedom of contract is essential to human liberty. Their third thesis is that over-regulation of labor markets is becoming an extraordinarily expensive operation not only in terms of sacrifice of principle but in terms of unemployment and of loss of productivity and national output. Indeed the authors calculate that total deregulation of the labor market might produce benefits to our society amounting to a stunning one hundred and seventy billion dollars per year.

This is an amazing figure but as the authors themselves indicate, it must be handled with great care, for it includes many disparate elements. By far the largest cost of regulation, amounting to two-thirds of the total, is attributed to OSHA—— the Occupational Safety and Health Administration—set up in 1973 with the best of intentions but by now transmuted into what Murray Weidenbaum has dubbed a "growth industry," involving a huge bureaucracy and concerning itself with such minute matters as the grain and slant of ladders in our mines and factories. Here the authors argue that much of what OSHA attempts to do might better be accomplished by giving free play to market forces. Hazardous occupations will always command higher than average wage rates. Faced by such costs employers will, in the long run, be led by self-interest to put in safety equipment.

I am frankly somewhat dubious of pushing this particular argument to an extreme since, in the long run, as Keynes cynically remarked, we shall all be dead. From the Industrial Revolution forward, governments have in fact tried to lay down general rules for enterprise. The real case against OSHA is that its rules are not general but specific and have produced a veritable mare's-nest of regulations that have not on the record diminished industrial accidents and in fact bear hardest on intermediate firms seeking to enter the competitive race. The way out may not lie in the total decapitation of OSHA but in step-by-step reduction of its manifold and often preposterous activities.

Outrageous Unemployment

While OSHA is by far the most expensive of our experiments in regulation, it is by no means the only one making for unemployment and lost output. Hours of work and minimum wage laws are a case in point. Here the heavy hand of government not only bears down on employers

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

but actually denies job opportunities to men and women able and willing to work outside the government standards. The evidence is now overwhelming that minimum wages in particular bear hardest on those which government in its wisdom is trying to help—the poor, the disenfranchised, and minority groups in general. As Walter Williams and others have shown, the minimum wage today set at $3.35 an hour accounts in no small part for outrageously high unemployment of nearly 50 per cent among black youth. Such laws should be allowed to die on the vine as they become irrelevant due to creeping inflation. Better still, they should be eliminated entirely as an affront to the principles of a free and humane economy.

Unfortunately, as the authors make plain, such principles are negated not just by substantive regulations but by the fact that government has also sought to lay down "procedural" rules for employer-employee relations. Until the Depression Thirties trade unions in particular had to earn their way in organizing industry. The passage of the Norris-LaGuardia Act in 1932 and the subsequent National Labor Relations Act changed matters. Acting under the Commerce Clause of the Constitution, Congress granted to unions extraordinary and unique privileges. Under the new rules:

1.) Unions gain exclusive bargaining rights in a plant whenever they can command a bare majority of workers present and voting at a union election.

2.) The employer is bound to bargain with this unit whether or not he thinks it is to his interest or to the interest of his employees.

3.) Except in Right to Work states union shop contracts are tolerated under which employees must at least pay union dues as the price of a job.

4.) All labor disputes are initially thrown into an administrative agency, the NLRB, which in effect makes labor law as it goes along and is by its very nature politically motivated.

Freedom of Contract

In criticizing this form of legislation and in seeking its repeal, the authors make clear that they are not against unions, so long as they are voluntary associations, nor against collective bargaining in so far as it proves a useful tool in determining pay and working conditions. What they consider unwarranted and unjustifiable is the government's mandating a particular form of such bargaining wherein the union becomes a kind of independent "*third party*" in labor negotiations, more concerned with its own aggrandizement than with the interests of the workers it purports to represent.

Thus, in so far as unions can push

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

wage rates above the level that would be set by the free market they may temporarily benefit a particular group of workers but at the cost, when times are bad, of widespread unemployment and displacement, as in the case of automobiles and steel. More seriously, present law prevents workers from direct access to management and leaves dissidents in a kind of no man's land. Collective bargaining as currently enforced is tantamount to the collectivization of labor.

What the authors of this book plead for is a much greater extension of freedom of contract where some workers would no doubt choose to join unions but others would prefer to deal with their bosses directly. It will be argued that this would produce chaos in labor relations. But just here it is well to remember that unions today constitute somewhat less than 20 per cent of the labor force, and a declining share at that. In the great majority of cases employers and employees manage to work out their differences without the help of government-sponsored unions.

The authors are also admirably clear on the point that workers should be allowed to withdraw their services when they find it to their interest to do so. But such voluntary withdrawal which amounts to resignation differs from the conditions that exist today when strikers are almost always sure of retaining their jobs, meanwhile drawing unemployment insurance and welfare payments at public expense. Moreover the aim of the present strike—a military term—is not just to withdraw labor but to close down the employer's plant and, by violence or threat of violence on the picket line or elsewhere, to prevent others willing and able to work from working. Men have no right to do this and every state in the union has laws against such actions. The tragedy today is that these laws are rarely enforced. The overregulation of labor in so many particulars has led to an all but total disregard for the common law.

Back in the seventeenth century Sir Henry Maine argued that the progress of civilization might be measured as a society passes from status to contract. With this exponential jump the West threw off the last vestiges of feudalism and serfdom and entered into an era of Liberty under Law. In the past fifty years governments have been rushing pell-mell to reverse such progress. *Deregulating Labor Relations* is a sustained plea for turning the clock forward again.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Clarence B. Carson

Judicial Monopoly Over the Constitution: Jefferson's View

Do the Federal courts have a monopoly of the interpretation of the Constitution? Further, are the judges, in the words of Thomas Jefferson, "the ultimate arbiters of all constitutional questions . . ."?[1] There is little reason to doubt that the prevailing view in the country would give a resounding affirmative answer to the first question. There are dissenters, of course, but so far as they are numerous and widely influential, their dissents are to particular decisions or opinions of the courts, not to the propriety of the courts making some decision.

The judges act as if they have a monopoly of the interpretation of the Constitution. Members of Congress usually make it clear that they believe the opinions of the Federal courts, especially the Supreme Court, are determinative. Presidents increasingly leave to the courts the questions they may have about the constitutionality of laws that come before them. The academic world generally supports this view, and many legal scholars make pronouncements that suggest they do not think it worthwhile to consider any other view.

In recent decades, the press, or the media, have mightily assisted the courts in maintaining this position. For example, when the courts began compelling states to reapportion legislative seats on the basis of population, the Washington *Post* declared that these

> rulings have unquestionably become the law of the land. It is not the function of Congress to set aside that law, or to thwart its operation. The spectacle of Congress trying to use its legislative power to deny or temporarily nullify constitutional rights which the Supreme Court had clearly upheld is such a serious encroachment upon the orderly division of powers that even extraordinary measures would be justified to defeat it.

There is much controversy, to be sure, over the soundness of the Constitution's edict that both houses of the state legislature must be apportioned on the basis of population. . . . The next Congress will be free, if it wishes, to propose a constitutional amendment . . .; however, Congress should not seek to shortcircuit judicial decisions.[2]

Dr. Carson has written and taught extensively, specializing in American intellectual history. He is the author of several books, his most recent being *Organized Against Whom? The Labor Union in America.* He is working at present on A Basic History of the United States to be published by Western Goals, Inc.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The editorial assumes that the courts have a monopoly of the interpretation of the Constitution. It enjoins the Congress against intermeddling in such matters. It asserts that the decisions are "the law of the land." More, it appears to add the court decisions to the body of the Constitution itself, for it holds that these are edicts of the Constitution. If it was not commonplace to make this last identification at the time, it has become so since, for writers and speakers frequently refer to the decisions of the court as if they were an integral part of the Constitution itself. In any case, the view prevails that the Federal courts have a monopoly of the interpretation of the Constitution.

It is not equally clear, however, that the view has triumphed that the courts are the "ultimate arbiters of all constitutional questions." There is at least a shadow of doubt about this, as yet. The Washington *Post* noted that a constitutional amendment could be adopted to change the courts' rulings. If so, the courts are not the ultimate arbiters, or perhaps it would be more accurate to say that they are not the penultimate arbiters, since such amendments are extremely rare. By my reading of it, the 16th Amendment, adopted in 1913, was the last amendment passed to resolve a constitutional question. More important, perhaps, there is now strenuous public resistance, at least from opinion makers, to reversing a court decision in this way. Nor is it clear, given the current mood, how the courts might respond to such a direct restraint on their powers. But for now, at least, there appears to be the remote possibility of amending the Constitution as an arbiter beyond the courts.

Questioning the Monopoly

There are several reasons for raising the question of the court's monopoly of interpreting the Constitution. The first is to make clear that in the version in which it now prevails the monopoly is of recent vintage. The second is to emphasize that the Constitution does not allot the interpretation of the Constitution to any particular branch of government, any special tribunal, or any class or order of men. The main reason, however, is to explore the view of Thomas Jefferson, both because of its contrast with the contemporary one and because it was more or less in accord with a widely held view for much of the 19th century. And last, I want to point up some of the incongruities, tendencies, infelicities, and dangers of the current view.

None of this is meant to suggest that the courts do not have a role in the interpretation of the Constitution, that they have not always claimed and acted upon a role, or that this was unexpected by the makers of the Constitution. On the contrary,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

many of the Founders anticipated that the courts would have a role in applying the laws and establishing the supremacy of laws made in pursuance of the Constitution *vis à vis* the states especially. That they would do so was mentioned a number of times in the Constitutional Convention.[3] Moreover, Hamilton argued in *The Federalist,* number 78, that it was the duty of "courts of justice . . . to declare all acts contrary to the manifest tenor of the Constitution void. Without this," he said, "all the reservations of particular rights or privileges would amount to nothing."[4]

But it should be emphasized that the Constitution grants no special powers of interpretation of it to the courts. Specifically, it grants no power of judicial review of legislation to the courts. The President is granted a power of the review of legislation, and he may veto bills on constitutional or other grounds. The Convention considered more than once the advisability of having the Supreme Court review legislation in conjunction with the executive. The proposal was rejected.

"Judicial Review"

In fact, the courts do not "review" acts of Congress to determine whether or not they are in accord with the Constitution. Any literal minded person might suppose that is what they do, or have done, by the use of the dubious phrase, "judicial review," to describe their procedures. In the course of applying the law to particular cases, courts sometimes adjudge an act of the legislature to be in conflict with the Constitution. They may then refuse to give the force of law to the legislative act. That is the basis of the traditional claim of the courts to make decisions, binding on themselves, regarding the constitutionality of acts. The power is not mentioned in the Constitution.

Jefferson was the first President to challenge the extent of the powers of the Federal courts. Indeed, he raised the challenge even before he attained the highest office in the land and continued to express various concerns in letters to individuals long after he retired to private life. Also, he was the most outstanding public figure in his day to confront directly the question of a judicial monopoly of the interpretation of the Constitution. From the confrontations he developed a coherent view of the matter.

Jefferson became embroiled in this question for both broad and general as well as particular considerations. From the outset, he was a strict constructionist of the Constitution. The first major constitutional question that came up for him was about the Bank of the United States. Jefferson was Secretary of State and President Washington asked for the opin-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ions of his heads of departments. He wrote Washington that ours is a government of delegated powers. "The incorporation of a bank," he said, "and the powers assumed by this bill, have not, in my opinion, been delegated to the United States by the Constitution."[5] He went on to explain the case by an examination of the powers enumerated and to recommend that the bill be vetoed.

Jefferson's Concern for Liberty

Jefferson's insistence on the strict construction of the Constitution was based on two broad and enduring concerns which lasted the whole of his adult life. One was his commitment to individual liberty. On one occasion, he wrote: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."[6] As to a definition "of liberty," he explained, "I would say that, in the whole plenitude of its extent, it is unobstructed action according to our will, but rightful liberty is unobstructed according to our will within limits drawn around us by the equal rights of others."[7] Jefferson subscribed to the natural rights theory, holding that man has certain God-given rights. Although there are many listings of these rights, he thought those most often threatened were "the rights of thinking and publishing our thoughts by speaking or writing; the right of free commerce; the right of personal freedom."[8]

His second broad concern was to restrain and limit government so that people might enjoy their rights. "The natural progress of things," he said, "is for liberty to yield and government to gain ground."[9] It was not safe, he thought, to confide overmuch power in government. "I own," Jefferson said, "I am not a friend to a very energetic government. It is always oppressive. It places the governors indeed more at their ease, at the expense of the people."[10] It was to hold governments in their place and restrain them in their activities that he was so concerned with strict construction of the Constitution.

"In questions of power, then," Jefferson declared in his draft of the Kentucky Resolution, "let no more be heard of confidence in man but bind him down from mischief by the chains of the Constitution."[11] Further, "Our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty making power as boundless. If it is, then we have no Constitution. If it has bounds, they can be no others than the definitions of powers which that instrument gives."[12]

Although Jefferson wrote boldly and frequently without equivocation, it may be well to point out that he was not by temperament a con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

troversialist. He did not like to debate, and avoided public confrontations before crowds. Though he was trained in the law, Jefferson did not like the courtroom clashes and only practiced it briefly. He relished intellectual exchanges among people of a questing disposition and much preferred the search for truth to any contest of wills for dominance.

All that is a way of saying that Jefferson did not enjoy political controversy, nor was he long a member of Washington's cabinet before he was thinking of some way to retire. He wrote James Madison that he had devoted more than 20 years to the public service and that he thought he ought to be able to leave it with a clear conscience, having paid his debt to society, so to speak. He wrote the President in 1792 that he looked forward to his early retirement "with the longing of a wave-worn mariner, who has at length the land in view, and shall count the days and hours which still lie between me and it."[13]

As he prepared to step down the next year, he wrote Madison that "The motion of my blood no longer keeps time with the tumult of the world. It leads me to seek for happiness in the lap and love of my family, in the society of my neighbors and my books, in the wholesome occupations of my farm and my affairs, in an interest or affection in every bud that opens, in every breath that blows around me. . . ."[14] It was in this frame of mind, so far as we can know, that he left public life in 1793, hoping never to return to it.

Return to Public Office

But however strong his resolve to stay out, Jefferson was drawn, almost inevitably, back into the political maelstrom within two or three years. He was a man still in the full vigor of his middling years, among the most prominent men in America, and the concern he felt for restraining the government by strict construction and thus protecting individual liberty did not diminish out of office. A political party was abuilding in the mid-1790s, the Republican Party, Jefferson called it, which opposed Hamilton's banking and taxing policies, and Jefferson became its leader. He was elected Vice President in 1796, but this did not alter the course of the government, which was controlled by the Federalists, with John Adams at the head.

Although there were other issues, Jefferson's concern about how the Constitution was being interpreted had been increasing from the early 1790s. These concerns provided him with the particulars of the case. As already noted, Jefferson opposed Hamilton's broad construction of the Constitution to justify the chartering of the bank. Indeed, that Hamilton won Washington to his side may

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

have precipitated Jefferson's resignation from the cabinet as early as he thought he decently could.

The manner of the imposition of the whiskey and other similar taxes in the course of the 1790s disturbed Jefferson just as much. The Constitution required that direct taxes be apportioned among the states on the basis of their populations. To Jefferson, and to many others, these were clearly direct taxes. But Hamilton and the Federalists called them excises, thus evading the constitutional requirement. That aside, however, Jefferson was bothered by the intrusion of revenue agents in the affairs of citizens in order to collect these taxes.

The Alien and Sedition Acts

But it was the Alien and Sedition Acts, passed in 1798, that really aroused Republicans in general and Jefferson in particular. It certainly appeared that the Federalists were bent on riding roughshod over constitutional limitations, to say nothing of what they were prepared to do to their Republican opponents. The Alien Acts were bad enough, particularly for their ignoring due process, required by the 5th Amendment, in authorizing the President to deport aliens without even the semblance of a trial. Good John Adams, however, was no enemy to liberty, or even aliens, and he never exercised the authority.

The Sedition Act, however, was another matter. It prohibited people to defame or slander high government officials either in speech or in writing. Jefferson drew up what became known as the Kentucky Resolution in which he declared that these acts violated constitutional prohibitions, and he called on other states to join in opposing it. Madison followed suit in a somewhat milder Virginia Resolution.

The Sedition Act was no idle threat to Republicans and particularly newspaper publishers. Government attorneys and the courts began to bring them to trial and punish them for their alleged seditious acts. Only Republicans, it should be added, were prosecuted. The Jeffersonian suspicion of the courts dates from the late 1790s, if not before. Indeed, judges did seem to try such cases with inordinate zeal, charging juries sometimes in such a way as to assure guilty verdicts, and meting out tough sentences. Even Supreme Court justices who, in those days, rode circuit and tried cases, were high handed in conducting their courts.

By the time he became President in 1801, then, Jefferson had incentive aplenty for limiting the government by a strict construction of the Constitution. He had a theory for how it could be done and was determined to do it. Meanwhile, another development had occurred which aroused his fears about a judicial monopoly

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the interpretation of the Constitution. Before leaving office, the Federalists had created new courts, new judgeships, positions for government attorneys, and the like. The outgoing President Adams filled these positions with Federalists, so that Federalists were solidly ensconced in the courts with lifetime appointments. The stage was set for a confrontation between the Jeffersonians and the courts, if ever there was to be one.

But Jefferson was not a man inclined to engage in confrontations. He was quiet and thoughtful, even philosophical, in demeanor, not given to attempting to ride roughshod over anyone. He always professed to respect the independence of the other branches in their proper spheres, and there is evidence to support his claims. He simply acted with the powers of the President and encouraged Congress to act with its powers so as to prevent any monopoly by the courts over the Constitution. He took care, generally, to see that if there were a confrontation it would be instituted by one of the other branches, not by himself. Nor did he engage in public declamations on the question, as a rule; most of what we know of his views comes from private correspondence—and what may be deduced from his acts.

First, do the courts have a monopoly of the interpretation of the Constitution? Jefferson did not equivocate on his answer. He answered the question most emphatically in a letter written in 1820, long after he had left office. "You seem . . . to consider the judges as the ultimate arbiters of all constitutional questions," he wrote to a correspondent. But that, Jefferson said, is "a very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy. . . . The constitution has erected no such single tribunal, knowing that, to whatever hands confided, with the corruptions of time and party its members would become despots."[15]

Who Decides?

Who, then, does decide constitutional questions? Let us leave to the side for the moment how they may be ultimately decided, so far as they ever are, in order to get to Jefferson's intermediate answer. So far as the Federal government is concerned, each of the branches—and in the Congress, each of the houses—decides for itself in matters that come before them. "The constitution has," Jefferson pointed out, "wisely made all the departments co-equal and co-sovereign within themselves."[16] He explained how it works this way: "Questions of property, of character, and of crime being ascribed to the judges through a definite course of legal proceeding, laws involving such questions belong of course to them, and as they decide on them ulti-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mately and without appeal, they of course decide *for themselves*. The constitutional validity of the law or laws again prescribing executive action and to be administered by that branch ultimately and without appeal, the executive must decide for *themselves* also. . . . So also as to laws governing the proceedings of the legislature, that body must judge *for itself* the constitutionality of the law and equally without appeal or control from its co-ordinate branches. And, in general, that branch which is to act ultimately and without appeal on any law is the rightful expositor of the validity of the law, uncontrolled by the opinions of the other co-ordinate authorities."[17]

On first reading of the above it may appear that Jefferson has evaded the issue or begged the question. It may be given that appearance, I think, because he used the qualifying phrase, "without appeal," and that may have a legal ring to it, suggesting an appeal to the judiciary. But that was not his meaning, or not his only meaning. Of course, in a case taken and decided in a lower court there may be an appeal to a higher court. But Jefferson was referring to something much broader than this. Many of the powers of the government are jointly exercised by or intertwined with other branches. In that case, usually there is no appeal from a negative decision of one of the other branches. For example, if the Senate refuses to approve an appointment of the President, there is no appeal, and the decision is final.

Checks and Balances

In order to understand Jefferson's view it is necessary to view it in the context of the constitutional provision of checks and balances and the separation and partial independence of powers, not in the judicial framework to which we have become accustomed. The powers of government are divided among the branches, Jefferson was maintaining, and with that division goes the power of determining the constitutionality of what they do. To put it in its strongest form, none of the branches may force the others to act on its view of the Constitution. Jefferson said, "If the legislature fails to pass laws for a census . . .; if the President fails to supply the place of a judge . . ., the judges cannot force [them]. . . ."[18]

How these checks and balances work, how each branch interpreting the Constitution for itself limits and restrains government, may best be illustrated with actual examples. When Jefferson became President, he pardoned those who had been convicted under the Sedition Act. He explained his action in letters to Abigail Adams: "I discharged every person under punishment or prosecution under the Sedition Law because I considered, and now con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sider, that law to be a nullity.... The judges, believing the law constitutional, had a right to pass a sentence of fine and imprisonment, because the power was placed in their hands by the Constitution. But the executive, believing the law to be unconstitutional, was bound to remit the execution of it, because that power has been confided to them by the Constitution. That instrument meant that its co-ordinate branches should be checks on one another."[19]

Marbury vs. Madison

Chief Justice John Marshall also wisely avoided a confrontation with the President by his opinion in the celebrated case of *Marbury vs. Madison*. William Marbury had been appointed justice of the peace by President Adams, but the appointment was so late that the commission was not delivered. James Madison, the incoming Secretary of State, refused to deliver it under orders from Jefferson. Marbury sued in the Supreme Court for a writ of mandamus that would force Madison to deliver the commission.

Marshall held that Marbury was indeed entitled to a commission and force was appropriate, but, unfortunately, by his reading of the Constitution, he had applied to the wrong court. Thus, petition denied, and no mandamus was issued. It was just as well, too, for the general view has been that Jefferson would not have honored it, and the court would have been powerless to enforce it. By Jefferson's interpretation of the Constitution the court could no more force him to act than he could force it to render a decision in accord with his wishes.

Marshall got his opportunity to try force on the President again in the Burr trial for treason in 1807. He issued a subpoena, on motion of defense, for Jefferson to appear in court. Jefferson declined, though he did send some papers, and gave the court a lecture on the separation of powers.[20] Marshall took no further action.

But before either of these cases came before the courts, Congress had begun to move to rein in and restrain the courts. In 1802, it repealed the Judiciary Act of 1801, taking away a number of new offices. Shortly after, it passed a new act returning Supreme Court justices to riding circuit and restricting the Supreme Court to one session each year. Then, gently prodded by Jefferson, it zeroed in on the most notorious of the judges.

District judge John Pickering, ill famed for his drunken, if not insane, carrying on in court, was impeached by the House and removed from office by the Senate. Supreme Court justice Samuel Chase was impeached by the House for his intemperate behavior in court, but the Senate failed of the two-thirds ma-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

jority required for conviction. Jefferson was disappointed and thereafter maintained that impeachment was very nearly an empty threat. That was surely an overly pessimistic assessment, however, for it appears that the behavior of judges improved perceptibly for quite a while after the Pickering and Chase cases.

The broader point is this. As Jefferson held, the House of Representatives, the Senate, and the President, as well as the courts, are empowered to act in ways that depend upon interpreting the Constitution. They take oaths to uphold and defend the Constitution, and if its meaning could only be divined by the courts this would amount to nothing more than oaths to obey the courts. Happily, however, the Constitution is written in English, and the other branches have powers that enable them to act upon their own interpretations and even restrain the courts if they get out of line.

All legislative power is vested in the Congress and executive power in the President. If the courts invade the legislative domain of the Congress by their constructions of the Constitution, as they have most certainly done in recent years, Congress has the power to set them straight. The Constitution authorizes Congress to define and limit (or expand) the appellate jurisdiction of the courts.

The President can refuse to enforce court orders he believes in conflict with the Constitution. (The courts have no enforcement machinery, i. e., prosecuting attorneys, police, armies, prisons, or electric chairs, of their own.) As Andrew Jackson is alleged to have said, "John Marshall has made his decision; now let him enforce it."

Judges can be impeached and removed from office, though lawyers rail impotently that they can only be removed for indictable crimes. It happens that when the Senate acts as such a high court, there is no appeal from its decisions. As a last resort, Congress can refuse to appropriate money for the operation of the courts. In short, not only can the other branches interpret the Constitution, but they are also in as good position as the courts to make their interpretations stick.

A System of Limited Government

What I have been describing is a system of checks and balances, a system in which no branch has a monopoly of interpretation, in which any branch with a will can work to restrain the others. It is a system of limited government, limited toward the branch which most strictly construes the Constitution. Jefferson hoped that clashes between the branches over the Constitution could be avoided. To that end, he recommended that each branch refrain from approaching too near to the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

bounds of its powers. That would tend to limit government even more and give room for the liberty of the people, which he thought was the greater end of government.

Jefferson did not believe, however, that all the branches of government together are the final arbiters of constitutionality. Not even the Federal and state governments, to whom he would certainly provide some place, are the ultimate arbiters. Government is too dangerous, too bent on aggrandizing its own powers, to leave to it or them the final decision. "I know of no safe depository of the ultimate powers of the society but the people themselves," he said.[21] In the final analysis, he thought, that was where the power of interpreting the Constitution resides. The people may turn out members of Congress who displease them on constitutional issues. They can refuse the re-election of a President. If all else fails, or if the branches of government cannot agree, the constitution can be amended by the consensual process prescribed.

There is great danger, Jefferson thought, in a court monopoly of the interpretation of the Constitution. Any monopoly would be fearsome, but that of the courts would be the most dangerous. The members of the court are appointed for life, are difficult to remove, and hold perilous power over the populace. Although Jefferson's nose was undoubtedly finely tuned to sniff the threat of despotism in every tainted breeze, he meant no exaggeration when he said that it would be an oligarchic despotism.

—FOOTNOTES—

[1]Edward Dumbauld, ed., *The Political Writings of Thomas Jefferson* (New York: Liberal Arts Press, 1955), p. 153.

[2]Quoted in L. Brent Bozell, *The Warren Revolution* (New Rochelle, N. Y.: Arlington House, 1966), p. 111.

[3]For example, see Elbridge Gerry's remarks in Charles C. Tansill, ed., *Formation of the Union of the American States* (Washington: Government Printing Office, 1927), p. 147. But there were objections to this view as well; see pp. 548–49.

[4]Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers* (New Rochelle, N. Y.: Arlington House, n. d.), p. 466.

[5]Henry S. Commager, ed., *Documents of American History,* vol. I (New York: Appleton-Century-Crofts, 1962), p. 159.

[6]Dumbauld, *op. cit.*, p. 76.

[7]*Ibid.*, p. 55.

[8]*Ibid.*, p. xxvi.

[9]Adrienne Koch and William Peden, eds., *The Life and Selected Writings of Thomas Jefferson* (New York: Modern Library, 1944), p. 447.

[10]*Ibid.*, p. 440.

[11]Dumbauld, *op. cit.*, p. 161.

[12]Koch and Peden, *op. cit.*, p. 573.

[13]*Ibid.*, p. 520.

[14]*Ibid.*, p. 523.

[15]Dumbauld, *op. cit.*, p. 153.

[16]*Ibid.*

[17]*Ibid.*, p. 151. Emphasis by Jefferson.

[18]*Ibid.*, p. 153.

[19]*Ibid.*, p. 154.

[20]See Claude G. Bowers, *Jefferson in Power* (Boston: Houghton Mifflin, 1964), p. 410.

[21]Dumbauld, *op. cit.*, p. 154.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Gary McGath

THE ETHICS OF CRIME

PRESIDENT JOHN F. KENNEDY said that "every American ought to have the right to be treated as he would wish to be treated."[1] The political consequence of the philosophy behind this statement has been rapid growth in government control, as politicians have worked to make people do what others wish them to do. Any statement about rights is not simply a political statement, but an ethical one as well. And the effects of such ideas go beyond politics. Although Kennedy clearly intended that the government would be the enforcer of this "right," many people have drawn a further inference: that if the government is lax in enforcing it, there is little or nothing wrong with taking personal action to make sure one is treated as he would like to be.

This view of rights stands in sharp contrast to the kind of rights proclaimed in the Declaration of Independence. The rights to "life, liberty, and the pursuit of happiness" come from the *laissez-faire* view of rights—that is, the view that rights are a moral sanction on one's freedom to live and act without unwanted interference from others. On the other hand, the "right to be treated as one would wish to be treated" implies an obligation on the part of others not only to refrain from interfering, but to engage in positive action as required by the claimant of the right. This formulation stems from what might well be called the *devez-faire* ("must do") view of rights in contrast with the laissez-faire or "let do" view.

Sometimes the devez-faire theory of rights serves as an explicit justification for committing crimes; politically motivated groups that take over buildings and offices in order to

Mr. McGath is a computer programmer and free-lance writer in Hollis, New Hampshire.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

press their demands on the owners of the property are an obvious example. The more typical way in which it encourages crime, though, is simply through giving a stamp of legitimacy to a person's desire to attain his goals by illegitimate means.

What is at issue here is not the psychology of criminals—a matter on which I claim no expertise—but the logical consequences of certain moral premises which are widely accepted today. The argument that these premises promote crime rests only on the observation that they offer encouragement and vindication to people who are inclined to crime, and that they make the victims of crime feel less sure that they can really regard themselves as victims. Certainly other factors also contribute to the decision to resort to crime; but anyone who has any capacity for self-esteem on the one hand or guilt on the other has to be affected by his view of the moral rightness of his actions.

The average mugger or burglar is not a philosopher; but for exactly the reason that he is not, he passively absorbs the influences around him and lets other people's beliefs mold his own moral values. When a person with no convictions of his own hears that people who are better off than himself are robbing him of what is rightfully his, he will see little reason to balk at taking it "back."

Anyone who has not descended to the mental state of an animal must recognize, however vaguely, that he has to follow certain principles to exist, whether he lives in isolation or in a society. A person who realizes that people cannot live together without property rights may still decide to steal, but he is likely to be discouraged by his knowledge that everyone else in the world can legitimately regard him as an enemy. If, on the other hand, one believes that people who own property are already his enemies because they have what he doesn't have, then he may as well take their property as not; he may even think he increases his self-respect by righting the "injustice" they are doing to him.

Devez-Faire vs. Property Rights

The devez-faire view of rights undercuts the principle of property rights and thereby lends an air of legitimacy to crime. The right to property is a laissez-faire right; the obligation it imposes is the obligation not to take or damage another person's property. Under a devez-faire theory, the right to property is a conditional one at best, since a person's right to his property may be overridden by another person's "right" to be provided for. A thoroughgoing advocate of this theory may even regard property as an impediment to the implementation of rights.

Proudhon's dictum that "property

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

is theft" has been absorbed—to the extent that a mind can absorb contradictions—by a large part of our culture. Businessmen are reluctant to use the principle of property rights in their own defense. Many self-proclaimed defenders of capitalism avoid the issue of property rights, preferring to talk about secondary social issues rather than to upset people. The Supreme Court has told us that "neither property rights nor contract rights are absolute."[2]

Attacks on property are often based on the egalitarian variation of the devez-faire view of rights—on the notion that everyone is entitled to the same degree of well-being, whether he has earned it or not. By this criterion, a person who is more successful than the average, and who keeps what he earns, is depriving others of their rightful share of the products of his effort. In granting him the right to keep his property, the government is helping him to oppress those who want it.

What gives egalitarianism its appeal is the belief that one person can gain in society only through someone else's loss. This idea effectively wipes out the concept of productivity, leaving distribution as the only issue. If one person's gain were always another's loss, there would be no basis either for trade or for property rights, since the only way to acquire wealth would be to take it from someone else. The concept of property (as well as that of theft, which means the taking of someone's property) would become meaningless, leaving only the concepts of possession at a given time and of force as the sole means of gaining possession.

A Distorted View

This "zero-sum" view of society cannot stand up to examination; when people engage in productive activity, they do not simply redistribute what already exists, but create new wealth. Those who believe that wealth is static regard the possession of it as the mark of a looter. Therefore, they speak of businesses "exploiting" workers or "ripping off" customers in the course of voluntary transactions, and they cannot see any moral difference between the source of a well-paid business employee's money and the source of a thief's income. Since wealth is not created, but only transferred, some of them conclude, the fairest thing to do with it is to distribute it equally among all people. Others who share this belief draw the conclusion that the only right is the right of superior force. An opportunistically inclined person can switch at will between these two conclusions.

A genuine egalitarian society would not reward anyone for his achievements or permit anyone to benefit from his own efforts; to do so would be to acknowledge the exis-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tence of productivity and to permit inequality. The idea of such a society ought to horrify anyone who fully understands it, but it can be attractive to a person who ignores its ultimate implications. In popular language, egalitarianism takes the form of denouncing the "injustice" in differences between the rich and the poor. A thief does not have to understand the theory of egalitarianism to get the message that he should resent those who have what he doesn't.

Arguing Against Crime

If someone accepts the egalitarian philosophy and sees others earning more than he does, what reason can we offer as to why he should not take it from them?

Can we tell him that he should not use force to attain his goals? Modern usage has so diluted the concept of "force" that it has become nearly meaningless. The society that does not provide a person with as pleasant a job as he would like is said to force him to take the job he is offered. The property owner who does not allow people to use his property for their political purposes is said to force his views on them.

This broadening of the idea of force comes from the devez-faire view that a person can have a natural claim on the services of others. Under laissez-faire theory, rights are negatives—prohibitions on what one person may do to another—and force is a positive action against a person's rights. The devez-faire view, on the other hand, makes rights into positive claims on people, and correspondingly expands the definition of force to include the failure to satisfy the claims that people make by right.

A thief who has heard the word "force" applied so broadly is not going to regard his own use of force as particularly distinctive or reprehensible. "I force people to give me their wallets?" he might say. "So what? They force me to live in a dump!"

Can we morally deter the criminal by telling him that he should obey the law? It would not help, at least not in the United States; Americans have never placed a high value on obedience to authority, except when they have been convinced that its demands are justified. If they do not believe there is a good reason for a law, they will not give it their support. This characteristic of Americans may, in fact, be the reason why crime is a worse problem here than in many other parts of the world. In Europe, people are more likely to wait for the government to provide the property of others which they are told is rightfully theirs. In many other parts of the world, they are apt to join revolutionary movements in order to create a government that will provide it to them. Both of these kinds of people think

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in terms of having an authority set things right rather than doing it for themselves.

In the United States, though, people are more likely to act on their own initiative. If they do not reject force as a means to their ends, then they may decide to correct their "inequities" by direct and forcible action. The source of American initiative is, in fact, the laissez-faire principle; Americans have recognized that they do not have a claim on other people to give them what they want, and that no one has the right to direct their actions, so they have gone out and done things for themselves.

Today, however, many people who reject laissez-faire have learned to take matters into their own hands; they have seen, without understanding its source, the example of those who live by their own initiative. People of this sort are likely to be only a transitional phase if current trends continue; the next step beyond the criminal's pseudo-independence is the mentality that clamors for a dictator. It is not much of a consolation, though, to think of this as a long-term solution to crime.

The devez-faire principle simply does not offer any solid moral arguments against seizing people's property. At most, it can serve as a basis for arguing that the government should be doing the seizing and that individuals should not make up their own distribution plans for society.

Legal remedies alone will not stop crime. As long as criminals can believe that what they are doing is right, punishment alone will not discourage them. Only the laissez-faire principle of rights provides a fully satisfactory reason why theft is wrong; thus, this principle is as important a weapon against crime as it is against dictatorship.

—FOOTNOTES—

[1]John F. Kennedy, June 11, 1963, quoted in T. H. White, *The Making of the President 1964*, Mentor, 1965, p. 210.

[2]Prune Yard Shopping Center vs. Robins, 447 U.S. 74, 81, 100 S. Ct. 2035, 2040 (1980).

IDEAS ON LIBERTY

Keeping the Peace

IN SPITE OF repeated attempts to curb it, "patronage" continues to grow as government gets bigger and bigger. And how could it be otherwise? Government, among other things, is today a huge business, handing out contracts, awarding franchises, and filling jobs of influence all over the world. These are often rich rewards for favors conferred. It is not surprising that crime finds its way into such an arrangement.

W.M. CURTISS

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Ridgway K. Foley, Jr.

The Myth of Self-Regulation

MYTH shrouds the concept of industrial and professional self-regulation like a thick coastal fog, obscuring fundamental truth and casting light and shadows of chimera and deception. Analysis should disperse the fog and dispel the myth, revealing to the world the true nature of the apparition and its inherent tendencies.

Regulation necessarily implies the application of coercive force to voluntary human behavior. It consists of normative restraints upon otherwise free conduct. It matters not that the policing function derives from some or all members of an association or related group of similar businesses: the end result must be constriction of otherwise unimpeded acts—compulsion.

Attachment of the appellation "self" to the concept of regulation does little other than to disguise the concept and delude the unwary. True self-restraint presupposes internal strictures upon uninhibited courses of action, bars which stem from personal, ethical, or moral values inherent or learned. Self-regulation in the business or professional context attains quite a different picture: in place of individual assessment and determination of value rises the specter of compulsive control by the group, often engrafted into inviolate legislative principles carrying sanctions for non-compliance. Normally, a dissenter possesses no choice as to membership in the group, other than a desire to create, produce, and trade a given good, service, or idea. Once one decides to engage in a profession or an industry, he finds himself subject, as part and parcel of his activity, to the oft-Draconian codification of taboos which attend that choice. Thus, while an actor may obtain an

Mr. Foley, a partner in Schwabe, Williamson, Wyatt, Moore & Roberts, practices law in Portland, Oregon.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

initial choice as to market entry, self-regulation serves to circumscribe his range of choices flowing from that basic decision.

To the extent that self-regulation imposes only voluntary compliance without jural penalties, a believer in individual liberty or the doctrine of voluntarism ought take no umbrage. It is consonant with fundamental freedom to apply non-coercive peer pressure and moral suasion to inculcate right values and persuade proper conduct by one's compatriots. It is quite another thing—a malevolent matter indeed—to band together to invoke the legal processes in order to fit one's fellows unto Procrustes' bed even in the good names of morals, honor, and justice! Further analysis in this essay challenges the propriety of industrial/professional self-regulation of the coercive sort.

The Problems with Codes

The Anglo-American tradition, perhaps by madness, has degenerated into a pseudo-European system of legal codification, a significant change from the open texture of the common law. Premised upon the principle that punishment or penalties ought only to flow from the violation of known, positive, normative rules, legislators seek to deduce all likely events and to make all necessary regulations regarding their occurrence. Business self-policing generally takes the form of cartel-like codes; as such, self-regulation suffers all of the dreadful defects indigenous to codification.

First, codes cannot anticipate all likely occurrences. The minds of little men who attempt to presage and rule in advance are just too small and uncreative to recognize and comprehend the gamut of free human action in the market. Mankind understands the natural law of causal consequences but dimly at best: we cannot edify our brethren because we see obscurely and forecast imperfectly. Therefore, all codification is doomed to a greater or lesser degree of failure by the nature of man and his universe.

Second, codification tends to limit consequences to the lowest (and most unacceptable) common denominator. Prior restraint possesses one fundamental failing—it deals solely with the seen and ignores the unseen. Prior restraint as exercised by codifiers and regulatory draftsmen prevents untrammeled behavior and thereby inhibits, proscribes, or alters results. No one can discern what choices would follow an idea if the seminal choice is thwarted.

Two Root Assumptions Reinforcing Regulation

Pared to essentials, all regulatory standards rest upon two premises: First, that unregulated conduct is evil, and second, that the regulator

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

possesses the inherent ability to curb that malevolence. Subjected to proper scrutiny, both ideas prove fallacious.

Initially, consider the proposition that autonomous human activity deserves condemnation as evil. Not necessarily true. All analysis requires a comprehension of fundamental human nature. Mankind possesses a propensity for betterment, for kindness, sympathy, and empathy, along with a more sinister side tending toward darkness and cruelty. The philosopher and the theologian have long observed and considered this duality of human nature. Man exhibits inherent flaws consistent with his finite condition; neither inherently good nor naturally evil, he enjoys the capacity for improvement but not perfection.

Given this indisputable fallibility, the contention that unregulated conduct constitutes evil proves too much. As with all human endeavor, business or professional activity manifests the dual capacity for good or evil. It does not differ in this respect from any other human action.

However, rational and empirical investigation reveals that mankind generally performs better with lessened (rather than increased) regulation. Although not subject to certain proof, reason demonstrates that unfettered creative endeavors normally lead to an astonishing array of goods, services, and ideas, as distinguished from the more turgid output emanating from a closed or managed system.[1] Historical evidence supports this thesis: witness the imaginative flowering during the times of the Saracenic Empire or nineteenth century America.[2]

One caveat: by reason of mankind's recognized duality and propensity to evil, completely unfettered human action cannot be tolerated. A free society, governed by rules of justice and opposed to coercion, requires constraints inhibiting the initiation of force and the pursuit of fraud against unwilling participants and providing a final resolution of otherwise insoluble disputes. In essence, such rules and orders circumscribe destructive conduct while leaving creative accomplishment without manacles. To the extent, then, that industry codes and professional standards tether force and fraud or provide an orderly means for solving disputes, those devices serve the legitimate ends of justice and comport with legal propriety.[3] However, if these devices exceed the described boundaries, they represent unwise and improper excursions into conduct which should remain unbound and wholly voluntary.

The Wisdom of the Regulator

Secondarily, refer to the proposition that regulators possess the capacity to regulate more wisely than

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a market of myriad voluntary actors, each propelled by his own subjective value structure. No evidence exists that those who would control human endeavor offer any surfeit of experience, intelligence, integrity and value beyond the mill run of men. Indeed, just the opposite seems true: persons who would exercise dominion over their fellows (singly or by means of that eternal abomination, the committee) generally lack the necessary humility required to admit that they know not all (or any) of the answers to the perplexing questions of creation, production, distribution, trade and transfer.

Nevertheless, suppose the industry planner to be the best and the brightest, a cut above his peers in intelligence, integrity, and ability. Even with this unlikely supposition, the matter simply will not work. No one among us possesses the insight, the foresight, and general mental and moral equipment to perceive, evaluate, and decide the myriad choices necessary to control creative human behavior. Each individual holds a dynamic set of values dependent upon his view of the world, self, and propriety.

No one can enter into the human mind of another, assimilate his perceptions, values and desires, and make equal or better choices for the latter than the subject. As proof of the pudding, consider the fiduciary—conservator, guardian, or trustee—who must act for another in personal investment or decisional matters: no such fiduciary ever performs as well or as carefully for his ward as he does in his own personal investment and life decisions. A fundamental natural law decrees that the actor will always spend his own money more wisely than the property belonging to another. Consequently, the regulator cannot possibly act harmoniously with the market desires of the many, if the trustee cannot even act beneficially for the one.

Consumer Protection

One common fable supporting industry/professional self-regulation derives from the overworked rubric of consumer protection: regulation is necessary to protect the users of goods, services, and ideas. But protect from what? From force and fraud? If so, why not rely on general laws enacted by a general legislature and enforced by a general judicial system? After all, most informed citizens agree that compulsion and deceit constitute wrongs to be avoided. From disorder? The beauty of a market unhampered by prior restraint lies in its inherent harmony, its benevolence arising out of seeming disorder, its balance surging from countless minds seeking incalculable subjective values and, in this interaction, soaring toward untold heights with

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

unexpected discoveries. From unsafe products and shoddy goods? The normative rules and orders of the common law courts impose substantial penalties upon purveyors and practitioners who do not carry out their creed and contract and cause harm to an innocent along the way. The market will produce that which is desired, and safety and fitness ought to be determined by seller and purchaser in an unrepressive atmosphere.

Saviors of the Public

The rhetoric of consumer protection—all too often—proves to be the shrill chantings of common scolds. Who is the consumer to be guarded? The self-anointed saviors of the public generally represent no one outside of a narrow band of self-interested persons who wish to recast society (or a particular portion thereof) in their wee graven images. The buyer of goods, services, or ideas chooses from among many options in a free society, and he normally chooses well. The protector (like the hypothesized omnipotent regulator discussed before) cannot assume the character of any (let alone each) of the members of the purchasing public and render wiser choices for that (or those) persons. At best, the so-called champion inserts his value system into the scheme; at worst, he robs all others—vendors and purchasers—of their essential humanity by declaring their value structures wrong or illicit and by substituting his own judgment for theirs in a coercive milieu.

No one can create a perfect world. No one can even conceive of a universe where imperfect man produces only that which is safe and exemplary. We live in a perfectly ordered universe governed by a harmony of natural law, but we are finite and fallible beings who deviate from that plan and cause discord in the political/economic Garden of Eden. To the extent that our attempts at human action accord most closely with the rules of the universe, we tend to generate greater success and find more happiness; to the extent that we stray from these rules of natural order, we encounter greater difficulty and travail.

In no case do we approach perfection: the world and the political economy will always find danger in design and manufacture and imperfection in concept and execution. If, *sans* prior restraint, one alleges harm caused by another by reason of departure from generally recognized rules of behavior, and can prove his case in a general court of law, the common law provides an abundant recovery; however, the freer the society, the less incidence of economic error and impropriety.

In any event, those who cry out for consumer protection display an often disguised antidemocratic men-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tality. In a market, each person takes on many roles; creator/producer, owner/shareholder, employee, user. As a user, every man votes in a dollar democracy, casting his hard-earned money ballots for the goods, services, and ideas he deems most efficacious and necessary to satisfy his wants. In the grand name of consumer protection, a few individuals owning subjective views of what is right and good for all, and currying the political powers to effect such goals, thwart the true desires of mankind in society. Simply put, the panjandrumatic champion decides what is best for his neighbors and exchanges his determination for the free choice of those less politically fortunate.

The Public Interest

In a slightly altered guise, self-regulation advocates recur to the public interest in an attempt to justify forceful intervention in the lives of others. Another fantasy masking fact.

All interests are truly private. The "public" resides beyond meaningful definition, for each and every inhabitant of a given territory makes up the "public." Each such individual enjoys different desires in a differing and ever-changing scale of preferences. No universal inclination encompasses all mankind: neither philosopher nor scientist has been able to discern a universally good chair, good book, good city, or good idea. All interests, therefore, derive from private persons, from discrete inhabitants of this earth, and no two persons evidence an identical value structure.

One may define a private interest as a value held by an individual. A public interest must mean that a heretofore purely private interest, in the speaker's subjective opinion, has assumed such seminal importance that all members of society should embrace it as an eternal verity to the extent that if any other personal interest conflicts with the advancement of the ultimate interest, the conflicting or secondary interest must be shunted aside and the holders thereof deprived of their liberty to elevate and enjoy that value.

If one views man as possessed of dignity and worthy of the exercise of free choice, he cannot condone the imposition of laws which traduce that choice under the label of public interest. The hedonistic calculus of the utilitarian Jeremy Bentham sought to justify this very obstruction of the decision-making power and right of free human beings. Although laid to rest in the later nineteenth century by such thinkers as Frederic Bastiat, Herbert Spencer, and William Graham Sumner, the concept arose like a phoenix in the last century under the mask of public interest. Thus cloaked, the abstraction has

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

wrought great and continuing wrongs.

The Reality Behind Regulation

What lies behind the facade of regulation in consumer protection erected for the public interest? Thrust the high-sounding phrases to one side and uncover reality: self-regulation operates to propagate and foster the twin evils of limited market entry or public monopoly, and entitlement transfers or subsidies. Pious prattle will not disguise the fact that economic control by those involved in the regulated industry or profession will reduce the variety and quality of goods, services, and ideas and inflate their respective prices, all the while diminishing freedom for us all. The depravities forged by coercive practice know no bounds, but all may be reduced to one of the two categories of monopoly or subsidy.

Many correctly perceive monopoly as a wrong to be shunned, yet incorrectly apprehend it as a private affair. Monopoly fetters the market by coercively reducing the array of available choice. Nonetheless, the only monopoly to be feared is the public monopoly of force. Absent compulsion, no private monopoly can exist, for mankind operates on differing sets of value judgments and principles.[4] A complete harmony of mind would adduce a single seller of a single product: everyone would drive Buicks or launder with Fels-Naptha. Impossible, given the nature of the human creature. It is only when the state enforces market limitations that monopoly rears its ugly head.[5]

Coercive self-regulation advances the fascist cartel by varying deceits. For example, in the appellation of public protection, professions may erect barriers to market entry, or may circumscribe practice in a manner calculated to divide the market. Public political rhetoric assigns "competition" as a good and "monopoly" as an evil, yet the undiscriminating may assert the need for regulation (read: Restriction on Market Entry) in the same breath. That limitation curtails actual competition and reserves a setting at the economic bounty table to those who gain favor with the controlling establishment. The rulemakers tend to accommodate their friends and favorites and to exclude those who appear different or who seem likely to be tough competitors.

The brouhaha about professional advertising marks but a single episode in man's eternal struggle to be free from unnecessary shackles. Why not open the gates of production and practice wide enough to let all who wish to do so compete? Why not allow the market to decide who best satisfies the needs and desires of the user of services or the consumer of goods? A negative answer must rest upon the tacit or explicit elitist as-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sumption that some person or group may make better choices than the user or consumer. Objective observers of human nature must reject this arrogation.

Disguised Transfer Payments

Self-regulation also serves as a vehicle for disguised transfer payments pursuant to the tired doctrine of entitlement. Reduced to basics, subsidies occur when one party induces the state to take private property from another unwilling person and to transfer it to the first party under sanction of law. Transfer payments assume many forms: Outright gifts and grants, assured and artificially high prices, guaranteed market share, and territorial monopoly to name a few.

Self-regulation enhances the transfer payment structure in several ways. First, the draftsmen or codifiers assume a quasi-governmental role within which they are able to implement their own desires and choices. Second, regulators tend to view the state as a necessary partner with the industry or profession; political machinations and easy ethics lead to rapid rationalization of entitlement (" 'my profession attains supreme importance', 'our needs are different' "). Third, concurrently with limited market entry devices, the controllers foster programs which increase their market share and return to the disadvantage of new or disfavored participants.

All of these factors, and myriad variations on the theme, permeate the professional/industrial scene once controls are handed over to those involved in the business; any other outcome would be unexpected and incompatible, positing the predilections of man to coerce and rule his fellows if tendered the opportunity to wield state monopoly power.

Who Should Rule?

One final inquiry merits investigation: assuming the need for regulation of industry and profession to prevent initiation of aggression and to compel the resolution of disputes in a court of last resort, who should make the rules: interested representatives of the regulated association or elected representatives of the general government?

Application of the principle of subsidiarity (government acts most appropriately the greater the propinquity to the governed) suggests associational self-regulation: those in rule-making and adjudicative capacities understand the nature of the arena and the problems of the enterprise; rules and orders will more nearly accord with justice.

Reflection augurs for a different result. While subsidiarity might be conducive to a rough equity given a wide sway over the industry, this essay has demonstrated that only rules and orders concerned with the pre-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

vention of force and fraud and the application of common justice deserve sanction in a free society. Given that supposition, the principles undergirding democratic government seem to outweigh the concept of subsidiarity. No talisman is required to guide one through a particular profession or industry: general rules of law appear quite adequate to assure compliance with state-wide standards. Fragmentation by enterprise would produce unnecessary conflict and chaos in an area where only a few simple and understandable standards are required.

Conclusion

Self-regulation represents a chimera. It operates as a code phrase to denote sanctioned coercion by prior restraint of free human conduct by interested parties not governed by benevolent motives. This human creative energy, if released unrestrained, might dispatch wondrous development for all mankind. Instead, the regulators argue for dullness, sameness, and a mere trickle of the possible goods, services, and ideas. If the free society represents an ultimate quest for the human actor, industrial and professional self-control effected by the police powers of the state poses an unnecessary barrier to the attainment of that laudable end.

—FOOTNOTES—

[1]Wilhelm Röpke, *A Humane Economy* (Liberty Fund, Inc., Indianapolis, 1971).

[2]Henry Grady Weaver, *The Mainspring of Human Progress* (Foundation for Economic Education, Inc., Irvington-on-Hudson, New York, 1953).

[3]A subsidiary question remains: should universal standard-making be delegated to an interested body, or should it subsist with the general government in the spirit of democracy and the rule of law? This essay addresses such an inquiry in the section, "Who Should Rule?"

[4]To debunk the charade of monopoly, see Hans Sennholz, "The Phantom Called Monopoly," VII *Essays on Liberty,* 295-317 (The Foundation For Economic Education, Inc., Irvington-on-Hudson, New York, 1960) and Armentano, D. T., *The Myths of Anti-Trust* (Arlington House, New Rochelle, New York 1972).

[5]The belief in the private monopoly also miscontrues or ignores the doctrine of substitution of products which defeats any attempt to increase the price of a good beyond the interaction of free supply and demand.

Freedom and Majority Rule

IDEAS ON LIBERTY

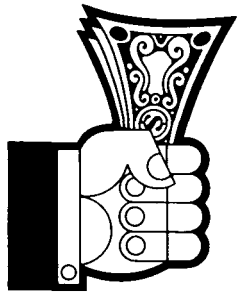
THERE'S not a single plank in the platform of the welfare state that was put there because of a genuine demand by a genuine majority. A welfarist government is always up for grabs, and various factions, pressure groups, special interests, causes, ideologies seize the levers of government in order to impose their programs on the rest of the nation.

EDMUND A. OPITZ

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Henry Hazlitt

HOW "OBSCENE" ARE PROFITS?



A few months ago in these pages, I hinted that in this allegedly "capitalistic" country, the dominant ideology, as revealed daily by the majority of politicians, TV programs, and the press, was anticapitalistic. This is shown by the endless number of faults daily alleged against capitalism. I dealt specifically with ten of these charges, as presented in a letter from a troubled young college graduate, in an effort to reassure him that the alleged faults, if they were serious, were in any case not inherent in the capitalistic system as such.

But one criticism that was surprisingly not in his list of ten is probably the most frequent of all. It is made every day by at least some politician, or some TV program, or some newspaper, charging that as a result of "unrestrained" capitalism this or that person or firm has just been caught making "obscene" profits. Or it is charged that under capitalism profits are in general inexcusably high and wages shamefully low.

One reply to the first of these charges is that it is very fortunate in the long run that profits are sometimes extravagantly high, because this incites more people to become entrepreneurs, stimulates increased production in the line in which the high profits exist, and eventually brings down the relative price that consumers have to pay for that product.

As for the general charge about

Henry Hazlitt, a frequent contributor to *The Freeman*, has a long and distinguished career as an economist, journalist, editor, and literary critic. Best known of his numerous books is *Economics in One Lesson*, originally published in 1946 and since translated into ten languages with sales of more than 700,000 copies. The recently revised edition is once more available in inexpensive paperback.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the relation between wages and profits, it is easily shown that the truth is the exact opposite. In 1982, according to the calculations of the U. S. Department of Commerce, the U. S. national income amounted to $2,436.6 billion, the wages and salaries of workers to $1,856.5 billion, and corporate profits before taxes to $174.9 billion. In other words, wages were more than ten times as great as corporate profits.

The comparison is much the same if we consult Table B-12 in the latest Economic Report of the President (February, 1983). This table presents the "gross domestic product of nonfinancial corporate business" for 46 years, including 1929, 1933, and every year from 1939 on. If we take 1981, the last year for which final figures were available, we find that these corporations paid in that year $1,150.1 billion as compensation to their employees, had left profits before tax of $186.6 billion, and paid their stockholders $52.9 billion in dividends. In other words, the wages paid by these corporations were six times as great as their profits, and twenty-one times as great as the amount paid out to their stockholders.

I find I was also calling attention to this typical distribution in an article in *The Freeman* in August 1979, in which I presented tables of both the dollar and percentage distribution of corporate earnings for the years from 1949 through 1978 inclusive. (In the last ten years of this comparison, employees got an average of 90.2 per cent of the combined total available for division between the two groups, and stockholders an average of only 9.8 per cent—a 9 to 1 split.) But in view of the persistence of the Marxian myth that the workers are mere "slaves" of the bourgeois class, are systematically "oppressed," and are subjected to "naked, shameless, direct, brutal, exploitation" (in the words of *The Communist Manifesto*), the real distribution cannot be presented too often.

Concerning the Accuracy of the Statistics

Before I go further, I should say a word about the official figures I have just been citing. Are they accurate? My reply is that I believe them to be careful and conscientious. Especially when we consider that all values are ultimately subjective (as the "Austrian" economists have reminded us) there are basic questions to be raised about the validity and meaning of estimates of such things as total national income.

Questions about legitimacy are much less serious when we are dealing with such smaller and more explicit figures as the total of money-wages and corporate profits and dividends. But even such estimates have to be extrapolated from smaller

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

samples. For example, the Department of Commerce estimates of the total net profits of some 2.7 million corporations are based on the total net profits reported to the Internal Revenue Service by only 85,000 of the largest corporations (including all with assets of more than $25 million). But I have neither the detailed knowledge nor the statistical skills to second-guess the Department's official figures, so I am assuming them—with one reservation—to be good enough for our present purposes.

That reservation concerns not the government compilation, but the accounts of the individual corporations. In an inflationary period such as we have been having, net profits are likely to be systematically overestimated, because costs, for example, are likely to be systematically underestimated. Depreciation is apt to be written off against acquisition cost, rather than against present or future replacement cost.

There remain further questions to ask about profits. What per cent are they of the total national income? What is the net burden that they impose upon the consumer?

Let us take these questions in order. First, let us look again at the official estimates of profits. The national income for 1982 is estimated at $2,436.6 billion and corporate profits before taxes at $174.9 billion. But we must also add to this second figure the profits of small unincorporated business—the farmers, grocers, butchers, drug stores, independent gas stations, and so on. We find these estimated under "proprietors' income"—for farms $19 billion, for nonfarms $101.3 billion. From this we get a total of $295.2 billion. This would come to about 12 per cent of the national income.

This figure may seem modest enough, compared with most popular assumptions, but now we have to ask a further question. Is the estimate too high?

The answer turns partly on what we decide to call a "profit." Economists—including those in the Department of Commerce—now conventionally divide the sources of personal income into wages, rent, interest, capital consumption, and profit.

Profits Tend Toward Zero

With the exception of a few socialistic writers, economists have seldom deplored profits. Adam Smith, the father of classical economics, viewing the problem historically, looked forward to a time when profits would tend to diminish. John Stuart Mill, in his *Principles of Political Economy* (1848), wrote a special chapter on "The Tendency of Profits to a Minimum"—though his conception of "profits" included what economists are now careful to separate as "interest." Since a little after

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the appearance of Alfred Marshall's *Principles of Economics* in 1890, an increasing number of economists have even agreed that under conditions of perfect competition pure profits tend to fall to zero.

This conclusion will amaze most laymen, but there are economists who go even further. Frank H. Knight, in his book *Risk, Uncertainty, and Profit,* which appeared in 1921, concluded that "pure" profit is probably a negative sum: "The writer is strongly of the opinion that business as a whole suffers a loss" (p. 365); and "It seems probable that with society and human nature as they are, the individual not only charges nothing for this [risk-taking] service, but pays something for the privilege of rendering it—on the average" (p. 368). The entrepreneur did this, Knight believed, not because he was an altruist, but because he was an optimist. The typical entrepreneur not only believes that the business on which he has embarked will enjoy higher than average profits, but he tends to be overconfident about his own abilities.

Can we reconcile such a conclusion—or even the conclusion that profits tend to be non-existent on the average—with the Department of Commerce profit figures that we have just been citing?

Let me remind the reader that what we are now discussing is not the total amount that the typical entrepreneur receives, but what he receives in the form of "pure" profit. Part of his income in any one year may consist of what he receives for his managerial labor (or would receive as salary if he worked for somebody else); part of it may represent the equivalent of interest on his investment; part of it what he might otherwise have received in rent on his buildings; and part of it capital consumption, represented either by insufficient write-offs for depreciation or withdrawal of previous savings.

So there is no irreconcilable contradiction between the positive figures of corporate and individual "profits" that the government compiles and the conclusion that on the average "pure" profits may be zero or even a negative sum. We need merely recognize that corporations tend to earn, for the most part, little more than the equivalent of interest on their investment (even though it is called "earnings" or "dividends") and that entrepreneurs, on the average, tend to work for less than they might otherwise have received from others in salary.

So, finally, what should be the buying public's political attitude toward the profit-seeker, the entrepreneur? Broadly speaking, it should be just the opposite of what it actually is.

All entrepreneurs are trying to meet better than others the needs or

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

wants of the consumers. If, under competitive conditions, one company is making greater profits than others—even "inordinate" profits—it means that it is serving the wants of consumers better. Either it is supplying them, in their own judgment, a product superior to that of its competitors, or it is supplying them with it at a lower price. (It could not be selling it to them at an obviously higher price, for they would not buy it.) It is selling the product at a lower price, or making a greater margin of profit at the same price, because it has learned how to cut costs below its competitors. So profits, under free competition, cost the consumer nothing—or less than nothing.

If the consumer ought to get mad at somebody, it ought rationally to be at the unsuccessful competitor, the company that is losing money. For such a company is wasting resources. The value of the resources it is pouring into manufacturing and selling a product is greater than the value for which that product can be sold. True, the losses fall in the first instance on the unsuccessful company itself, but in the long run its failure tends to impoverish the rest of us, because it has wasted capital that could have been employed in supplying something at a lower cost that was more needed.

It is not rationality that leads politicians to denounce what they call "obscene" profits, but an appeal to envy. Their denunciations lead to the conclusion that profits deserve to be punished by heavy taxation. But as Ludwig von Mises once put it: "Taxing profits is tantamount to taxing success in best serving the public."

IDEAS ON LIBERTY

Profit and Loss

An excess of the total amount of profits over that of losses is a proof of the fact that there is economic progress and improvement in the standard of living of all strata of the population. The greater this excess is, the greater is the increment in general prosperity. Entrepreneurial profits and losses are essential phenomena of the market economy. There cannot be a market economy without them.

The entrepreneurial function, the striving of entrepreneurs after profits, is the driving power in the market economy. Profit and loss are the devices by means of which the consumers exercise their supremacy on the market. The behavior of the consumers makes profits and losses appear and thereby shifts ownership of the means of production from the hands of the less efficient into those of the more efficient.

LUDWIG VON MISES

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Healing America

In 1965 a young man named Richard Cornuelle, who had studied with Ludwig von Mises and worked for Garet Garrett, wrote a book called *Reclaiming the American Dream.* With its plea for voluntarist solutions to our social problems, it should have had wide acceptance as a landmark work. But it was manifestly ahead of its time. I remember talking with Senator Vance Hartke of Indiana in his office about it, and telling the Senator about Cornuelle's efforts to get Middle Western bankers to establish a fund for boys and girls who needed funds for a college education. The next time I saw Hartke he said, "Tell your friend Cornuelle not to worry about the kids. We've taken care of it." Meaning, of course, that the government was about to put up the money for indigent college students.

The tide, in 1965, was still running heavily in Statist directions. No Achilles, Richard Cornuelle did not sulk in his tent, but his subsequent efforts to sell voluntarist projects to and through such organizations as the National Association of Manufacturers came to little.

Eighteen years later, in a different economic climate, Cornuelle has returned to the wars with *Healing America: What Can Be Done About the Continuing Economic Crisis* (Putnam, 208 pp., $14.95). With almost two decades of socialist and semi-socialist failures on a world scale to provide him with horrible examples, Cornuelle's new book, though it repeats the theme of the old, comes to us with a tremendously augmented authority. This time it should be a landmark for the many, not the few.

With a perception that has been sharpened by the years, Cornuelle

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

can deal with Herbert Hoover and Franklin D. Roosevelt as two representatives of an older America who were humbled in the same way. Hoover, as the leading voluntarist of his time, had had tremendous success in rallying the independent sector to surmount disaster, whether in war torn Belgium and Russia, or during the unemployment crisis of 1921, or in the Mississippi flood of 1927. He had no reason to suppose that the shocks of 1929 and 1931 could not have been met by voluntarists pooling their funds and concerting their actions. Puzzled when foreign banking and monetary disasters combined with the Smoot-Hawley tariff to snuff out promising upturns, he turned to such devices as the Reconstruction Finance Corporation and the Farm Board, which were negations of his own basic philosophy.

The New Deal

Roosevelt did not disagree with Hoover. He accepted a "supply-side" Democratic platform in 1932, promising to keep the dollar sound and the destructive power of government contained. But once in office he acted as Hoover had acted. "We didn't admit it at the time," so Rexford Tugwell said forty years later, "but practically the whole New Deal was extrapolated from programs that Hoover had started."

Things broke better for Roosevelt individually than they had for Hoover, but it was not because the first New Deal really worked. Despite heavy outlays for welfare, despite putting young men to work in CCC camps, and despite the efforts to jockey price and wage levels and deal with farm surpluses, unemployment remained high. As late as 1940 there were 1,239,000 Americans on welfare.

The war bailed Roosevelt out, but if it hadn't been for the resourcefulness of the American industrialists, whose virtues had been nourished and flattered by Hoover in his long years as Secretary of Commerce, the war might have had a different end. Ironically, the war seemed to sustain the reputation of John Maynard Keynes, who could point to government-financed war production as a type of "pyramid-building" that could substitute for true ingenuity in opening up new lines of industrial endeavor.

The war saved Roosevelt, but it obscured the nature of the problems raised by "Keynesianism." When the Keynesians freed the government from what Cornuelle calls "the discipline of cost consciousness," it tilted the balance between the public and independent sectors "in favor of centralization." It loosed inflation upon the world as the prime tool for supporting pyramid-building. Keynes himself saw the fallacy involved; he admitted to Hayek that a new serf-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

dom might be down the road. But Americans, who still sang the praises of "pluralism," lost sight of the fact that we had become a society "with two important sectors and the vestige of a third."

When Galbraith wrote *The Affluent Society* in 1958, he made no mention of a third sector—and "no one noticed the omission for years." With no independent nonprofit sector to serve as a cushion, there was nothing to prevent government from trying to push its taxing and inflation powers to the limit. We had, as Macaulay had said in another connection, become "all sail and no anchor."

New Institutionalism

In pushing for a return to "independent action," Cornuelle finds that numerous efforts are being made to by-pass the State. He does not advocate that we go the route of Italy, where thousands consider taxation a form of theft. But he notes the growth of a "new institutionalism." Governments are slipshod when it comes to maintaining bridges, but there is no complaint about the privately owned and operated 7,490-foot span that connects Detroit with Canada; and in Pittsburgh the city officials are negotiating with U.S. Steel to build a bridge and then rent it to the city. The Audubon Society leases natural-gas rights on its land in Louisiana to three oil companies with the assurance that the oil companies will do nothing to hurt wild life. This sort of thing could do wonders for protecting the whooping crane.

Cornuelle's "anatomy of the independent sector" is far-reaching, done in the Tocqueville manner. We all know about Blue Cross and Blue Shield medical insurance. And private schools continue to flourish. But how many people know about the twenty-week course in spelling, punctuation and grammar that the Continental Illinois National Bank and Trust Company gives to all its new employees?

Philanthropy is only a small part of the independent sector. Some 10 million Americans are now involved in 700,000 to 800,000 mutual-aid groups. There is the Portland Friends of Cast Iron Architecture, the Theatre for Revolutionary Satire, the Guild of English Handbell Ringers. There is even a Flat Earth Society.

C. William Verity of Armco Steel headed a task force for Reagan on Voluntary Activities. The task force set up a Data Bank. Cornuelle thinks this is all very well, but he bemoans the fact that the Verity bank is "at least the sixth such . . . clearing house of independent projects." None of them "has led to any significant imitation of the listed programs."

It won't stay that way for very long if Cornuelle remains in a writing mood.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

MR. JEFFERSON
by Albert Jay Nock
Introduction by Russell Kirk
202 pages ■ $8.95 paperback

OUR ENEMY, THE STATE
by Albert Jay Nock
Introduction by Edmund A. Opitz
109 pages ■ $6.95 paperback
(Both books published by Hallberg Publishing Corporation, Delavan, WI 53115) 1983

Reviewed by Edmund A. Opitz and Robert M. Thornton

THE republication of these two classics occurs, auspiciously, forty years after the *Memoirs of a Superfluous Man* and twenty years after the founding of The Nockian Society. The books are attractively printed and each includes a long introductory essay written for the occasion, plus some notes on A.J.N. by the secretary of The Society.

Western nations were well down the road to serfdom when *Our Enemy* appeared in 1935. Nock had no expectation that his book would slow our Gadarene progress, but he believed that anyone who had uncovered the plain truth of things in some area of life ought to hang up his findings in plain sight where questing minds might find them. That there are such minds among us is attested by the growing demand for this book.

The tone of *Our Enemy* is set by the magisterial opening sentences: "If we look beneath the surface of our public affairs we can discern one fundamental fact, namely: a great redistribution of power between society and State. This is the fact that interests the student of civilization . . . an increase of State power and a corresponding decrease in social power."

In order to grasp Nock's argument we must understand his major terms—society, government and the State. A society is a multi-generational group of kindred—men, women and children—occupying a given territory, sharing a common heritage and vision, acknowledging and mostly practicing the moral code—don't murder, assault, steal, or lie; keep your word, fulfill your contracts, love your neighbor and don't covet his goods. Every society is founded upon certain "rules of the game," precepts which must be observed if the social order is to endure. These rules are codified as the law.

Society is the context in which individuals choose and pursue their personal goals, ride their hobbies, play, loaf, or whatever—so long as it's peaceful. It includes the economy, where millions of men and women engage in the voluntary production and amicable exchange of goods and services. Society is the vast and intricate network of people

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

linked in voluntary associations seeking to advance their educational, religious, scientific, artistic, recreational or other purposes. Society is intrinsically peaceful; force is alien to the several kinds of activities which comprise the basic nature of society. But every existing social order has to contend with people who are anti-social; predatory and criminal elements who disturb the peace of the community by violating the life, liberty and property of the citizens. Acts of violence must ultimately be countered by lawful force—government.

Society needs an agency authorized to use defensive force in situations specified under the law in order to protect individual citizens against violations of life and liberty and property and the nation against external aggressors. This is, basically, the idea of government set forth in the Declaration of Independence. It is a political philosophy premised upon the conviction that people, by and large, are competent to run their own lives and direct their personal affairs; it contemplates a government that lets people alone, intervening only to check those who refuse to let others alone.

The law is set in motion by a breach of the peace, and then it intervenes negatively to punish those who initiate force against others; it counters violence by an exercise of lawful force. But all human institutions suffer corruptions, and the law is no exception; government is subject to capture by power hungry groups from within the private sector who twist the institution of justice into an instrument of plunder. At which point the State comes into operation.

The State, in Nock's terminology, is a double barrelled affair, part public and part private. It is a pincer movement, with office holders misusing their political power to operate a scam in cahoots with groups of private citizens, to gain economic and other advantages for both at the expense of the general public. The State is the law perverted into an instrument of plunder. It is a cabal of politicians and pressure groups operating behind a screen of legality to the disadvantage of peaceful and productive citizens. The State is a parasitic and predatory burden upon society. It is our enemy.

Nock brought out his *Jefferson* on the hundredth anniversary of our third President's death. When the book was reprinted in 1960 it contained a charming and perceptive Introduction by Jefferson scholar, Merrill D. Peterson, who called Nock's study "the most captivating volume in the Jefferson literature." He praised Nock as "a finished scholar, a brilliant editor, and a connoisseur of taste and intellect."

Jefferson was one of Nock's favorite Americans, the most apolitical

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

politician our country has produced, a multi-faceted man and a model of civilized conduct. Nock sums up Jefferson's character: "A dominant sense of form and order, a commanding instinct for measure, harmony and balance, unfailingly maintained for fourscore years toward the primary facts of human life—towards discipline and training, towards love, parenthood, domesticity, art, science, religion, friendship, business, social and communal relations."

Shortly after the original appearance of his *Jefferson,* Nock ventured a prediction: "I think my *Jefferson* will work in the same way (as *The Freeman*), very quietly and for a long time, and with an effect entirely disproportionate to the amount of fuss made over it. I think this is the natural way for an influence to work."

Just so! "The high merits of *Jefferson's* urbane and persuasive style," writes Russell Kirk, "have lost nothing since 1926." Indeed they have gained, and a new generation of readers has a rich experience in store.

The Nockian Society, 30 South Broadway, Irvington, N.Y. 10533, offers *Freeman* readers a discount price of $11.00 for both books.

HANDSOME BLUE LEATHERLEX

FREEMAN BINDERS

$5.00

Order from:
THE FOUNDATION FOR ECONOMIC EDUCATION, INC.
IRVINGTON-ON-HUDSON, NEW YORK 10533

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

IDEAS HAVE CONSEQUENCES

Any idea becomes our own as we are exposed to it and accept it and practice it and can explain it to friends—all done without coercion.

This pretty well describes the activities of FEE—seeking, practicing, sharing ideas on liberty, that liberty which Lord Acton identified as "the assurance that every man shall be protected in doing what he believes his duty against the influence of authority and majorities, custom and opinion." If you'd care to join in pursuit of such ideas and ideals, just use the form below to reserve your place on **The Freeman** mailing list.

If you're already on the mailing list, but have a new address, please use this form to let us know of the change and to minimize any delays in delivery.

Sorry, this is not a mailing card; please enclose in a stamped envelope.

THE FOUNDATION FOR ECONOMIC EDUCATION
IRVINGTON-ON-HUDSON, NEW YORK 10533

☐ Please add my name to receive THE FREEMAN, 64-page monthly study journal of free market, private property, limited government ideas and ideals; plus NOTES FROM FEE, a 4-pager devoted to libertarian methods, issued every other month.

☐ I'm already on your mailing list, but have a new address, as below.

Name _____ (Please print)

Street _____

City _____ State _____

Zip Code _____

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

OCTOBER 1983

Letter from the Paper Planet.....	Ernest G. Ross	579
From Caves to Computers	Bettina B. Greaves	587
Computers and Capitalism.....	John J. Davis	594
Why Not Deregulate Labor?	John A. Davenport	601
Judicial Monopoly Over the Constitution: Jefferson's View	Clarence B. Carson	605
The Ethics of Crime.....	Gary McGath	616
The Myth of Self-Regulation	R. K. Foley, Jr.	621
How "Obscene" Are Profits?	Henry Hazlitt	630
BOOKS:		
Healing America	John Chamberlain	635
Other Books		638

THE FOUNDATION FOR
ECONOMIC EDUCATION, INC.
30 South Broadway
Irvington-on-Hudson, New York
10533

Non-profit organization
U.S. POSTAGE
PAID
Foundation for
Economic Education, Inc.

MR. RICHARD G. NEAL
3701 S.GEO.MASON DR., 1715N
FALLS CHURCH VA 22041
LICENSED TO CNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED